



5/11/2023

## **An Update on the Governing Documents Restatement Project**

Governing Documents Review Committee Members,

In early 2015, the Board of Directors began the process of updating our Association's Governing Documents. This primarily focused on our two main documents: the Bylaws, and the Covenants, Conditions, & Restrictions (or CC&Rs). This process is still ongoing, and I want to take an opportunity to summarize the project so far. I hope this will help to bring more transparency to this very long and involved project as we continue to discuss these topics at our meetings.

On the following pages is a summary of the last few years of actions & discussions of The Board relating to the restatement project. These summaries are directly copy-pasted from each month's Minutes packet. A full and complete month-by-month breakdown of this project from its start is available on our website's "Ongoing Projects" page.

Among the most discussed topics were rental & occupancy limitations. This project progressed over the years, and California legislation changed what limits HOAs may place on occupancy and rentals. As a result, some provisions desired by prior Board members were rendered illegal and required removal.

Another controversial topic was that of HOA vs Homeowner responsibilities for exterior maintenance in "Exclusive Use Common Areas" like front landings & private patios. Unfortunately one set of crucial documents, our "Condominium Plans," were left out of the discussion while The Board deliberated over the years. In mid-2019, this document became a part of the conversation and it seemed to provide much more insight on the proper interpretations of maintenance obligations as our original Governing Documents lay out. The set of Condominium Plans is also available online on our "Governing Documents" page.

Back in March of this year, The Board sought a legal opinion regarding maintenance responsibilities of patio utility closets doors and water pipes. We asked our lawyers to examine our original Governing Documents & our Condominium Plans to determine who is responsible for the repair and replacement of these items. We have attached this legal opinion here, so that you may review its contents.

It is our belief that The Association should proactively seek out and resolve maintenance issues throughout our complex before they become so problematic that their repair requires an additional financial assessment. Many of you may recall around 2005 when all unit owners were levied a huge assessment (some \$10,000 to each unit) in order to repair dry-rotted balconies, staircases, and landings throughout our Common Areas. Expansion of the Association's maintenance obligations is intended to protect homeowners from these types of financial assessments.

We would invite all owners to participate in this discussion! Please see the website to submit feedback, and for information on how to attend our next meeting via Zoom.

Your Board,

The Eucalyptus Grove HOA

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**Eucalyptus Grove HOA**  
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**Condominium Plan - Lot 1**





The following table summarizes all the relevant Board actions as this project has proceeded:

Date:	Meeting type	Meeting Minutes Item:
3/12/2015	Regular	Price, Postel, Parma gave price of \$7,500 to update. Craig will obtain other bids.
4/9/2015	Regular	Price, Postel, Parma gave price of \$7,500 to update. Craig spoke with a few firms – Lowenthal; Ballentyne; and Chip Oxton. No action taken. James will resend the gov docs to Board.
5/15/2015	Regular	Price, Postel, Parma gave price of \$7,500 to update. Craig has spoken with other attorneys. Tabled.
6/11/2015	Regular	Craig has spoken with about 7 attorneys and recommended The Egenolf Group. Their proposal for a flat \$4K fee with a deposit of \$2K. Joe moved & Jaime seconded to accept their proposal. Unanimous
7/9/2015	Regular	Board confirmed to proceed with the Egenolf Group and authorized to pay them \$2K as a deposit.
8/13/2015	Regular	Board to review governing documents
9/10/2015	Regular	Tabled for now.
10/8/2015	Regular	Tabled for now.
11/12/2015	Regular	Tabled for now.
12/17/2015	Regular	tabled for now. Special board meeting to discuss this topic scheduled for 2/8/16, at 6PM, at Meeting Room.
1/14/2016	Regular	(special board meeting on 2/8/16 @ 6PM @meeting room); James to provide hard copy of existing governing documents to those board members in need.
2/8/2016	Bonus	Board members discussed differences in drafts. Comparing definitions and terms of the current governing documents to those of a new document provided by an attorney.
2/11/2016	Regular	in process of updating
2/22/2016	Bonus	Board members discussed differences in drafts. Comparing definitions and terms of the current governing documents to those of a new document provided by an attorney. Board agreed to allow Cathy and Craig to draft their version of definitions and then to present their version to the Board for approval.
3/10/2016	Regular	process of reviewing and updating by Board.





3/24/2016	Bonus	Board discussed, evaluated and reviewed Introductory recitals and Article I (definitions). Board accepted text with minor modifications. Some text was flagged for further review by attorney. To continue with this progress, Board agreed to hold a dedicated 1-hour session on CC&R revision after the regular Board meeting on April 14.
4/14/2016	Regular	in process of updating
5/12/2016	Regular	in process of updating
6/9/2016	Regular	Board to make individual "wish list" to be reviewed next meeting.
7/14/2016	Regular	Board to make individual "wish list" to be reviewed next meeting.
8/11/2016	Regular	Tabled.
9/8/2016	Regular	discussed rentals v. owner occupied
10/13/2016	Regular	in progress.
11/10/2016	Regular	Craig has been talking to lawyer, she's revising the draft.
12/8/2016	Regular	Lawyer making revised draft.
1/12/2017	Regular	in progress.
2/9/2017	Regular	in progress.
3/9/2017	Regular	in progress.
4/13/2017	Regular	in progress.
5/11/2017	Regular	in progress.
6/8/2017	Regular	in progress.
7/13/2017	Regular	in progress.
8/10/2017	Regular	in progress.
9/14/2017	Regular	in progress.
10/12/2017	Regular	in progress.
11/9/2017	Regular	Tabled.
12/14/2017	Regular	no action.
1/11/2018	Regular	in progress.
2/8/2018	Regular	in progress.
3/8/2018	Regular	in progress.
4/12/2018	Regular	in progress.





5/10/2018	Regular	in progress.
6/14/2018	Regular	in progress.
7/12/2018	Regular	in progress.
8/9/2018	Regular	in progress.
9/13/2018	Regular	in progress.
10/11/2018	Regular	in progress.
11/8/2018	Regular	in progress.
12/13/2018	Regular	in progress.
1/10/2019	Regular	in progress.
2/14/2019	Regular	in progress.
3/14/2019	Regular	in progress.
4/11/2019	Regular	in progress.
5/9/2019	Regular	James got two proposals from attorneys (Adams Stirling & Price, Postel, Parma,) for board to review.
6/13/2019	Regular	Joe motioned to allow Craig to talk to Adam-Sterling. Howard seconded with addendum of asking will they send someone to the meeting to talk to us personally. Unanimous. Chris would like to see a third proposal and will obtain one.
7/11/2019	Regular	Joe moved to accept Adam Sterlings "premium plan" for \$6,800 with additional restatement charges (\$1,140 - \$1,710). Howard seconded. Unanimous.
8/9/2019	Regular	special board meeting 8/26/19, at 3:30PM, at 7610 Meeting Room to solely discuss topic.
8/26/2019	Bonus	Board reviewed, discussed, and answered questionnaire from Adams-Stirling, Law Firm. Notes will be given to them to draft proposed CC&R's. Board will finish up questionnaire at next regular board meeting (9/12/19).
9/12/2019	Regular	special board meeting 9/16 @4pm
9/16/2019	Bonus	Board reviewed, discussed, and finalized Restatement Questionnaire for Adams Stirling. Craig will submit draft.
10/10/2019	Regular	in progress.
11/14/2019	Regular	in progress.
12/12/2019	Regular	in progress.





1/9/2020	Regular	in progress.
2/6/2020	Regular	Told 6-10 weeks to update Governing Documents, it's been 17 weeks. Craig is working on it.
3/12/2020	Regular	in progress.
4/9/2020	Regular	Some issues with draft like ban on smoking and issues with renting, lawyer needs to redo first draft
5/14/2020	Regular	Assigned new attorney. Board discussed rentals. Howard moved to tell attorney to allow 30% of units to be rentals, must have at least 12 month rental agreement and owner must occupy unit for at least the first year. No short term/ vacation rentals. Chris seconded Unanimous.
6/11/2020	Regular	Board discussed rentals and issues with attorney, will have a special meeting to discuss rentals Wednesday June, 17th at 3:00pm, by Bldg 7610.
6/17/2020	Bonus	Chris moved & Colin seconded to accept the draft that Adams-Stirling sent in March. 3 Yes, Craig abstained.
7/9/2020	Regular	Board will have comments on Google Docs by next meeting
8/13/2020	Regular	Chris moved to approve the CC&R's amendment reducing 75% -> over 50%. Howard seconded. Unanimous. Chris motioned for approval of the draft ballot as provided by Adams Stirling to vote to amend CC&R's. Colin second. Unanimous.
9/10/2020	Regular	Only 75 ballots received so far.
10/8/2020	Regular	120 ballots received. Not enough to count. Delayed until next month if sufficient ballots (at least 150+) are received.
11/12/2020	Regular	Ballot count moved to Dec 10 th due to lack of returned ballots.
12/10/2020	Regular	Todd Matson, Inspector of Elections reported the results of the ballot count: 138 Yes, 15 no, 3 abstains. Passed. Documents will need be signed in front of a notary (by the Pres & Sec) for recordation. From now, it will only take 50+% to amend CC&R's.
1/14/2021	Regular	Tabled. Waiting for signed CC&R's amendment to be recorded by the County.
2/11/2021	Regular	Special Meeting on Feb 25, 2021, at 1:00pm in parking lot by 7610.
2/25/2021	Bonus	Lengthy discussion. Once complete, draft of Restated Bylaws will be sent to owners to vote (apart or separate from the Restated & Amended CC&R's). Board stopped at Page 7 of Bylaws.
3/11/2021	Regular	Special Meeting on March 16, 2021, at 5:00pm, in parking lot by 7610.
3/16/2021	Bonus	Board finished discussion of Bylaws.





4/8/2021	Regular	Tabled
5/13/2021	Regular	5/24/21 special meeting @5:00PM at board meeting room parking lot.
5/24/2021	Bonus	Board finished discussion of Articles 2,3 and 4 of CC&Rs
6/13/2021	Regular	Tabled
6/14/2021	Bonus	Board finished discussion of Articles 4 and 5 of CC&Rs
7/8/2021	Regular	tabled until special meeting on 7/15/21 at 5:30PM by 7610 Parking area.
7/15/2021	Bonus	Board discussed Articles 6.2, 6.3, 6.4 and 6.5 of CC&Rs
8/12/2021	Regular	tabled until special meeting on 8/19/21 at 5:30PM by Meeting Room.
8/19/2021	Bonus	Board discussed Articles 6.1, 6.2, 6.4, 6.11, 6.13, 7.13, 7.15, 7.20, 7.22, and 7.23 of CC&Rs
9/9/2021	Regular	tabled until special meeting on 9/20/21 at 5:30 in front of the meeting room.
9/20/2021	Bonus	Board discussed Articles 8 and 9 of CC&Rs
10/14/2021	Regular	Joe moved to send (CC&R's)documents to Adams Sterling. Colin Seconded. Howard, Craig, Joe Yes vote. Colin No. Chris abstained.
11/11/2021	Regular	Colin moved to approve changes in the draft of the CC&R's and send to lawyer. Chris seconded. Unanimously approved.
12/9/2021	Regular	In progress – draft of Bylaws & CC&R's emailed to atty. Committees: Revision of fine schedule: Colin moved to solicit a review committee when new CC&R sent to association. Colin voted Yes. Joe, Howard, Chris, Howard voted No. Motion failed.
1/13/2022	Regular	Draft back from lawyer
2/10/2022	Regular	Chris moved to remove Craig as point of contact with lawyer. Craig isn't point of contact, James is. Colin moved to schedule special meeting on Wednesday 2/23 at 6pm via zoom
2/23/2022	Bonus	Board discussed Second Draft of Bylaws and CC&Rs. Colin moved to request full explanation of items/changes from Board not incorporated by Adams Sterling. Joe seconded. Unanimous.
3/10/2022	Regular	Schedule another meeting 3/24/22 at 6pm via zoom
3/24/2022	Bonus	The Board discussed various definitions
4/14/2022	Regular	Special Meeting 4/28/22 at 6pm with new board.
4/28/2022	Bonus	Review of discussion CC&R restatement project and on the progress thus far for newly joined Board Members. Board Members to review lawyer's comments on the suggested changes to the CC&Rs. Board Members to review Condominium Plans.





5/12/2022	Regular	Meeting 5/26 at 6pm
5/26/2022	Bonus	The Board discussed various definitions and Condominium plans. Including maintenance of landings and balconies and who owns lot 4?
6/9/2022	Regular	Special Meeting 6/22/22 at 6pm
6/22/2022	Bonus	Board discussed occupancy restrictions and maintenance. Chris moved to change maintenance philosophy to include outdoor closet doors to have association be responsible for outdoor utility doors. Colin seconded. Lengthy discussion. Tamara moved to withdraw the motion, Joe seconded. Unanimous.
7/14/2022	Regular	Occupancy restrictions, maintenance of exterior doors, exclusive use common areas: 7/28/22 @6pm via zoom
7/28/2022	Bonus	Board discussed maintenance responsibilities of gas lines, patio doors and exclusive use easement. Chris moved to have board put together list of changes between old and new CC&Rs to present to owners and that the board has one week to do so. Colin seconded. Unanimous
8/11/2022	Regular	No extra meeting next month
9/8/2022	Regular	Tabled
10/13/2022	Regular	Tabled
11/10/2022	Regular	2nd draft of bylaws & CC&Rs received back from attys; pipes; utility doors.
12/9/2022	Regular	Joe moved to push through changes with CC&Rs. Tamara seconded. No vote.
1/12/2023	Regular	2nd draft of bylaws & CC&Rs received back from attys; pipes; utility doors Owen moves to schedule a meeting for 2/4/23 at 10AM to discuss updating the CC&RS. The hybrid meeting will be held in the meeting room at 7610 Hollister Ave along with a zoom connection. All in favor. Unanimously approved.
2/4/2023	Bonus	Postponed due to technical difficulties.
2/26/2023	Regular	2nd draft of bylaws & CC&Rs received back from attys; pipes; utility doors.
3/9/2023	Regular	2nd draft of bylaws & CC&Rs received back from attys; pipes; utility doors Gov Docs meeting scheduled for 3/23/23 at 6PM via Zoom & in person at Meeting Room (7610 Hollister)







3/23/2023	Bonus	The Board recently sought a legal opinion regarding maintenance responsibilities of patio storage doors and pipes as indicated in the original Governing Documents (Condominium Plan, CC&Rs, & By-Laws).
5/13/2023	Regular	Tabled



Reply to: 2566 Overland Avenue, Suite 730  
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March 23, 2023

**PRIVILEGED ATTORNEY/CLIENT COMMUNICATION**

**Via email only: JamesN@bartlien.com**

Board of Directors  
Eucalyptus Grove Homeowners Association  
c/o James T.V. Nguyen  
Bartlein & Company, Inc.

RE: Eucalyptus Grove Homeowners Association  
Responsibility for Patio Storage Doors and Water Pipes

Dear Members of the Board:

We are writing to provide Eucalyptus Grove Homeowners Association (“Association”) with our opinion on whether the Association or the Owners are responsible for maintaining, repairing and replacing the patio and balcony Storage Doors (“Storage Doors”) and Water Pipes from the meter to the individual Unit (“Water Pipes”) within the Development. It is our opinion that the Association is responsible for maintaining, repairing and replacing the Storage Doors and the Water Pipes. If the Owners were negligent and such negligence damaged the Storage Doors or the Water Pipes, the Association may be able to seek reimbursement of the Storage Door or Water Pipe repair costs.

As we understand the facts, private storage closets are located on the Unit balconies and patios within the Development and are used by Owners for laundry machines, water heaters, or to store personal belongings. In addition, the Units are individually metered for water, and the Association is unsure who is responsible for the pipes from the meter to the Unit.

## **ANALYSIS**

The Association's Condominium Plans<sup>1</sup> ("Condo Plans") depict and describe the boundaries of the Units and the Common Area. Note 2 on Sheet 3 of the Condo Plans states that the "Common Area" is the land and real property within Lots 1 to 3 of Tract Map 13,421 in Santa Barbara County, except the Units. Note 2 states that each Unit is composed of one or more airspaces. Note 4 states that the boundaries of each airspace are the interior finished surface of the perimeter walls, windows, doors, floors, and ceilings. Note 5 states that exclusive-use easements over the Common Area exist for Unit Patios and Balconies, as shown and defined in the Condo Plans. The boundaries of the Patios and Balconies are the finished surfaces of the walls, floors, ceilings, windows, and doors of the adjacent building where those boundaries exist.

The Storage Doors are Common Area because they are located outside the boundaries of the Units and the Unit Patios and Balconies. In addition, Note 3 of Sheet 3 of the Condo Plans states that all pipes, wherever located, are Common Area except for the pipe outlets within the Units. So, the portion of the water pipes from the individual water meters to the Units is also Common Area.

### ***1. Maintenance, Repair and Replacement Obligations***

California Civil Code §4775 states, in relevant part:

(a)

(1) Except as provided in paragraph (3), unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, and maintaining the common area.

Civil Code §4775(a) defers to an association's declaration for maintenance, repair and replacement obligations, so we look to the CC&Rs to determine whether it contains any language regarding maintenance of Storage Doors and Water Pipes. Section 5.5.1 of the CC&Rs states, "the Board shall...maintain [and repair]...the Common Area." Since the CC&Rs, do not specify that the Association is also responsible for replacing the Common Area, we defer to Civil Code §4775(a)(1), which assigns overall Common Area maintenance, repair and replacement responsibilities to the Association. Thus, the Association is responsible for maintaining, repairing, and replacing all Common Area,

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<sup>1</sup> There are three Condominium Plans, all recorded in Santa Barbara County: (1) Lot 1 recorded on August 1, 1985 as document number 136-99, (2) Lot 2 recorded on November 18, 1985 as document number 137-8, and (3) Lot 3 recorded on December 18, 1985 as document number 1985-068073.

including all Water Pipes located outside the Units and the Storage Doors within the Development.

## ***2. Damage to Common Area***

The CC&Rs, Article III, Section 3.19 states that each owner is liable for any damage to the Common Area....sustained by reasons of the negligence of that owner, members of his family, his contract purchasers, tenants, guests or invitees. If the Water Pipes or Storage Doors need to be repaired or replaced, the Association must perform such work, even if an Owner caused the damage. However, if specific facts show an Owner did something that caused the damage, the Association may be able to charge the Owner for the damage to the Common Area under Civil Code §5855. Before charging the Owner, the Association must provide that Owner with notice and an opportunity to appear at a hearing before the Board.

## **CONCLUSION**

In conclusion, the Storage Doors and Water Pipes are located outside the Units and are Common Area. Under the Association's CC&Rs and Civil Code §4775, the Association must maintain, repair and replace the Storage Doors and Water Pipes.

Owners are liable to the Association for damage caused to the Common Area. While the Association must repair and replace the Storage Doors and Water Pipes, if the Association can show that an Owner's action or omission caused the damage, the Association may be able to seek reimbursement from the responsible Owner(s).

We trust this letter satisfactorily responds to your inquiries regarding this matter. If we can be of further assistance, please contact the undersigned.

Very truly yours,



Tonya L. Todd, Esq.  
ADAMS | STIRLING  
Professional Law Corporation

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**DRAFT 2**

**RESTATED BYLAWS**

**EUCALYPTUS GROVE HOMEOWNERS  
ASSOCIATION**

**a California nonprofit mutual benefit corporation**

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**RESTATED BYLAWS**  
**EUCALYPTUS GROVE HOMEOWNERS ASSOCIATION**  
a California nonprofit mutual benefit corporation

By this instrument, the Members of the Association hereby fully amend and restate, in their entirety, all previous bylaws, as well as all amendments to those bylaws, and substitute in their place these Bylaws.

**ARTICLE 1: DEFINITIONS**

- 1.1     “Association” means the Eucalyptus Grove Homeowners Association, a California nonprofit mutual benefit corporation.
- 1.2     “Board” or “Board of Directors” means the Board of Directors of the Association.
- 1.3     “Bylaws” means the Association’s bylaws.
- 1.4     “CC&Rs” means the Association’s declaration as the term is defined in the Davis-Stirling Act.
- 1.5     “Davis Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act, which is the portion of the California Civil Code beginning with Section 4000 that governs common interest developments.
- 1.6     “Development” has the same meaning as such time is defined in the Association’s CC&Rs.
- 1.7     “Director” means any member of the Association’s Board of Directors.
- 1.8     “Inspector of Election” means an inspector of elections as defined in the Davis-Stirling Act.
- 1.9     “Member” means a Member of the Association as defined in the Association’s CC&Rs.
- 1.10    “Separate Interest” means a separate interest as defined in the Association’s CC&Rs.

**ARTICLE 2: MEMBERSHIP**

2.1     Membership. Each person or entity automatically becomes a Member of the Association upon obtaining a publicly-recorded fee title ownership interest in a Separate Interest and remains a Member until he or she ceases to have such recorded fee ownership of a Separate Interest in the Development. Members are subject to the terms and provisions of the Articles of Incorporation, the CC&Rs, these Bylaws, and the Rules & Regulations (“Rules”).

2.2 Proof of Ownership. If the Board requests proof of record fee ownership of a Separate Interest, the Member must provide such proof in the form of a recorded deed.

2.3 Suspension of Membership Privileges. The Association is permitted to suspend Membership rights and privileges, except voting rights, as provided in these Bylaws.

### **ARTICLE 3: MEMBERSHIP MEETINGS**

3.1 Generally.

- a. *Annual Meetings.* The Association must hold an annual meeting each year to (i) count ballots for the election of Directors at the expiration of the corresponding Director's term and at least once every four years, (ii) announce the outcome of the Director election by membership vote and (iii) conduct any other Association business. Such meetings may include ballot counting for other types of elections as well.
- b. *Special Meetings.* Special meetings may be called for any lawful purpose by any of the following: (i) President of the Association, (ii) majority of a quorum of the Board, (iii) 5 percent or more of the Members in good standing for any lawful purpose, or (iv) as otherwise required by law. If Members of the Association call a special meeting, the request must be submitted to the Board in writing, specifying the nature of the business to be transacted. The Director or officer receiving the request must promptly deliver the request to the remaining Directors.
- c. *Date, Time and Location of Meetings.*
  - i. *Selected by the Board.* The Board is permitted to set the date and hour to hold annual meetings. However, the annual meeting must be held in the same month as the preceding annual meeting if it is reasonably practical, but not more than fifteen (15) months from the date of the preceding annual meeting.
  - ii. *Selected by the Membership.* If the date, time and/or location of a membership meeting selected by petitioning Members is unreasonable or contrary to the governing documents and/or statutory requirements, the Board is empowered to reschedule the date, time and/or location to something reasonable, relatively close to the original date, time and location requested by the Members calling the meeting, and compliant with the governing documents and statutory requirements.
  - iii. *Location of Membership Meetings.* Annual and special membership meetings will be held at a suitable location in or reasonably close to the development.

3.2 Notice Requirements.

- a. *Notice of Annual Meetings or Special Membership Meetings Called by the Board.* Except where one or more different periods are required by superseding provisions of the Davis-Stirling Act, a notice of annual meetings or special membership meetings called by the Board must be given not less than ten (10) days nor more than ninety (90) days before the date of the meeting.
- b. *Notice of Special Meetings Called by Petition of the Members.* The Board must give notice of special meetings called by the Members within twenty (20) days of the Board's receipt of such request. If the Board fails to give notice, the persons calling the special meeting may give notice consistent with these Bylaws and the law. Member-initiated special membership meetings must be held not less than thirty-five (35) days nor more than one hundred and fifty (150) days following the Board's receipt of the request.
- c. *Notice for Ballot-Counting Meetings.* If secret ballots are to be counted at a Membership meeting or Board meeting, at least thirty (30) days' notice, or any longer period of notice required by the Bylaws or the Davis-Stirling Act, must be given to every member before the voting deadline.
- d. *Notice Contents and Other Requirements.*
  - i. *Generally.* The notice must specify at least the place, date, and time of the meeting.
  - ii. *Special Membership Meetings.* In the case of a special membership meeting, the notice must include the general nature of the business to be transacted as specified by those calling the meeting. No other business may be transacted except as specified in the notice.
  - iii. *Annual Membership Meetings.* In the case of the regular annual meeting, the notice must include those matters which the Board intends to present for action by the Members. When the authorized quorum for a regular membership meeting is less than one-third of the voting power, then only matters, the general nature of which was given in the notice, may be voted upon. Otherwise, any proper matter may be presented at the meeting.
  - iv. *Membership Meetings Conducted Entirely By Electronic Means.* A membership meeting may be conducted entirely by electronic means, without any physical location being held open for the attendance of any Director or Member if all notices and other conditions required in Civil Code §5450 are met. If the conditions of Civil Code §5450 cannot be met or do not apply, membership meetings may still be conducted by electronic means if the notice requirements of Corporations Code §7511 and the meeting requirements of Corporations Code §7510(a) and (f) are met.

- e. *Delivery Requirements.* Notice of any membership meeting must be delivered as follows:
- i. *Method of Delivery.* Either personally, by electronic transmission (when consented to by the Member and not revoked), by first-class mail, charges prepaid, or by any other means permitted by law.
  - ii. *Location of Delivery.* To the Member: (a) at the Member's preferred delivery method, and, if specified, the Member's alternate or secondary delivery method as specified in a written notice provided by the Member to the Association according to Civil Code §4041(a); or (b) if the Member fails to provide such notice, the last mailing address provided in writing by the Member; or (c) if none of the above, the property address of the Member's Separate Interest.
  - iii. *Delivery Deemed Given.* Notice of a membership meeting is deemed given when delivered personally, deposited in the mail, or upon completion of electronic transmission to those Members who have consented to same.

3.3 Chair and Secretary of Meeting. The President of the Board or, in the President's absence, the Vice President or any other person designated by the Board must call the membership meeting to order and must chair the meeting. The Secretary of the Board must act as Secretary. In the absence of the Secretary, the presiding Officer must appoint someone to serve as acting Secretary for the meeting.

3.4 Recording of Meetings. Audio and video recording of membership meetings is prohibited by anyone other than a person authorized by the Board to record the meetings for the sole purpose of preparing official Association minutes.

#### **ARTICLE 4: VOTING RIGHTS**

4.1 Number of Votes. For each matter submitted to the Membership for a vote, Members are entitled to one (1) vote for each Separate Interest (regardless of the number of Members having an interest in the Separate Interest). The Association may not suspend the voting rights of Members.

4.2 Co-Owners. Where there is more than one owner of a Separate Interest subject to the Association's CC&Rs, all such co-Owners are Members and may attend any meeting of the Association, but only one co-Owner is entitled to exercise a vote to which the Separate Interest is entitled. Fractional votes are not permitted. If more than one ballot is cast for a particular Separate Interest on the same matter, only the first ballot received will be opened and counted.

4.3 Proof of Membership. No person or entity may exercise membership rights without an ownership interest in a Separate Interest subject to the Association's CC&Rs. If the Board requests proof of ownership, the required proof is a recorded deed showing the required ownership or, if the property was transferred within the past thirty (30) days and a copy of the newly-recorded deed is not yet available, a completed escrow closing statement is sufficient.

4.4 Presumption of Consent. Unless the Inspector(s) of Election receive a written objection before the close of balloting from a co-owner, it is conclusively presumed that a voting owner acted with the consent of his or her co-owners.

4.5 Voting for Properly Nominated Candidates. Members must vote only for those candidate(s) who have been properly nominated before the close of nominations.

4.6 Electing Board Seats with Different Terms. In any election where different Board seats to be filled have different terms, the elected candidate(s), in the order of the most votes received, will fill the longest terms available first.

4.7 Record Date. For Membership elections where written ballots are used, the record date for voting will be the first date any ballots are distributed to the Membership. However, if a ballot-counting meeting (whether a Membership meeting or a Board meeting) for a Membership election is adjourned, the Board may establish a new record date and if so, must give notice of the adjourned meeting to each member who, on the record date for notice of the meeting, is entitled to vote at the meeting. Only Persons who are/were Members on the original or new record date are entitled to vote for their respective Separate Interests. Nothing in this subsection permits the casting of more than one ballot for each Separate Interest. Persons acquiring title on a date other than a record date may attend the ballot-counting election meeting but are not entitled to vote. For any Membership election where a written ballot is not used, the Board is permitted to set a record date for an election no more than sixty (60) days before the date of the election meeting.

4.8 Proxies.

- a. *Generally.* The Association may use and accept proxies as permitted by law and the Association's governing documents, provided that the Association is not required to prepare or distribute proxies. Proxies are not permitted to be construed or used in lieu of a ballot at a meeting.
- b. *Proxy Form.* Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast a vote must be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. Proxies must meet all requirements of Chapter 4 of Article 2 of the Davis-Stirling Act, other laws, and the Association's governing documents.
- c. *Vote by Proxy Holder.* The proxy holder must cast the Member's vote by secret ballot unless the Member revokes the proxy before the Inspector of Elections receives the ballot as described in Section 7613 of the Corporations Code.
- d. *Who May Be Proxy Holder.* As provided for in Civil Code section 5130(a)(1), proxy holders must be Members.

4.9 No Cumulative Voting. Cumulative voting is not permitted.

4.10 Quorum. Unless otherwise provided by law or the Bylaws, the quorum requirement for membership meetings is a majority of the voting power of the Association. A



Quorum may be represented by any combination of Members physically present, virtually present by electronic video screen communication, conference telephone, or other means of remote communication, as permitted by Corp. Code §7511(a), and/or present by casting a ballot as provided for in Civil Code §5115(d). Under the Davis-Stirling Act, the quorum for an election to approve an assessment increase is more than fifty percent (50%) of the members.

4.11 Lack of Quorum and Adjournment. In the absence of a quorum at the beginning of a membership meeting, no business may be transacted except to adjourn the meeting to another date and time by the vote of at least a majority of the Members represented at the meeting. However, excepting only the circumstances described in the first sentence of this paragraph, a ballot-counting meeting for a Membership election, whether conducted at a Membership meeting or a Board meeting, may be adjourned to another date and time selected by a vote of the Board of Directors. The date of any adjourned ballot-counting or other meeting must be announced by the Board at the Membership or Board meeting and written notice of the date, time, and place the adjourned meeting must be given to the Members within the notice period required by law. Any adjournment must be to a date not less than five (5) days nor more than thirty (30) days from the date the original meeting was called, and the quorum for any adjourned meeting or election will be reduced to twenty-five percent (25%) of the voting power of the Association.

4.12 Loss of Quorum. The Members present at a duly called membership meeting at which a Quorum is initially present and may continue to transact business until adjournment, notwithstanding the loss of a Quorum, so long as the business must be approved by enough Members to constitute at least a majority of a Quorum had a Quorum been present.

4.13 Approval Requirements.

- a. *Generally.* The approval requirement for all matters decided by the Membership is the affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented, which affirmative votes also constitute a majority of the required Quorum unless otherwise specified in these Bylaws or the CC&Rs.
- b. *By Ballot.* Approval by written ballot (secret or non-secret) is valid only when: (i) the number of votes cast by ballot by the specified deadline equals or exceeds the Quorum (if any) required to be present at a meeting authorizing the action; and (ii) the number of votes cast equals or exceeds the number of votes that would be required to approve the action at a meeting.

## **ARTICLE 5: NOMINATIONS**

5.1 Nomination Procedures and Notice. Before the election of Directors, the Board must solicit nominees by written notice to all Members. The solicitation must specify the qualifications for candidates for the Board, the procedure, and the deadline for submitting a nomination. The deadline must be at least thirty (30) days after giving notice or otherwise as provided by law. Delivery of the solicitation must be by general notice or, if individual notice is requested by a Member before the solicitation is given, by individual notice, according to

Civil Code §4040. Nominees must be listed as candidates on the ballot provided (i) they meet the candidate, and Director qualifications and (ii) their nomination is made before the date and time set for the close of nominations.

5.2 Self-Nomination. Any qualified person may nominate himself or herself for election to the Board of Directors by submitting to the Association a written statement signed and dated by the person nominating himself or herself on or before the deadline for submitting a nomination. The Association may accept candidate statements and establish the criteria and deadlines for such statements in the Association's election rules consistent with these Bylaws and the law.

5.3 Floor Nominations and Write-In Candidates. Once nominations have been closed, no write-in candidates are allowed on ballots, and no floor nominations can be made at the ballot-counting meeting.

5.4 Election by Acclamation (Uncontested Elections). When, as of the deadline for submitting nominations provided for in Civil Code §5115(a), the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the inspector or inspectors of the elections, the Association may but is not required to, consider the qualified candidates elected by acclamation if all the conditions in Civil Code §5103 are met.

## **ARTICLE 6: DIRECTOR ELECTIONS**

6.1 Number and Term of Directors. The Board consists of five (5) Directors. Three (3) Directors must be elected in even-numbered years, and two (2) Directors must be elected in odd-numbered years. The term of each Director is two (2) years and until a qualified successor is elected to fill his/her seat.

6.2 Candidate and Director Qualifications. Members must meet the qualifications in the subsections hereafter to be eligible for nomination as a candidate and to serve as a Director on the Board.

- a. *Candidates Must Be Members*. The Association must disqualify the nomination of a candidate who is not a Member of the Association at the time of nomination. Proof of membership must be a recorded deed. Persons holding a fee simple interest in a Separate Interest merely as security for the performance of an obligation are not eligible to either be a candidate for or to serve on the Board.
- b. *Prior Ownership for One Year*. To be eligible for nomination and serve on the Board, a candidate for the Board or serving Director must be the record Owner of a Separate Interest for at least one year.
- c. *Member in Good Standing*. To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not be delinquent by thirty (30) days or more in the payment of any regular or special Assessment, except:

- i. A person may not be disqualified from nomination for nonpayment of fines, fines characterized as assessments, collection charges, late charges or costs levied by a third party.
  - ii. A person may not be disqualified from nomination because the person has paid the regular or special assessment under protest.
  - iii. A person may not be disqualified from nomination due to delinquent assessments if the person has entered into a payment plan with the Association according to Civil Code §5665 and is fulfilling the terms of the payment plan.
- d. *Co-Owners Eligible for only One Position.* To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not have a record fee simple ownership interest in a Separate Interest which is part of the Development with another person or impersonal entity concurrently serving as a Director. Where two or more co-owners concurrently seek election to the Board, only the first nomination will be effective.
- e. *Criminal Conviction.* The Association may disqualify a candidate or director that discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the Association from purchasing the insurance required by Civil Code §5806 or terminate the Association's existing insurance coverage required by Civil Code §5806 as to that person. At the time of nomination, each nominee shall disclose the existence of any past criminal conviction, with sufficient details to allow the Board to determine whether the criminal conviction will prevent the Association from purchasing the required insurance coverage or result in the termination of such insurance coverage.
- f. *Internal Dispute Resolution.* Before any candidate for nomination or serving Director may be disqualified, the person or impersonal entity must be provided the opportunity to engage in internal dispute resolution as provided in the Davis-Stirling Act.

6.3 Impersonal Entities. If title to a Separate Interest is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a Member for candidacy or serving on the Board. The designation by the impersonal legal entity must be in writing with documentation confirming both the designation and its authority to do so.

6.4 Trusts. If the title is held in the name of one or more trustees, subject to a trust, a sole trustee or one of several trustees is permitted to be a candidate for a position on the Board or to serve on the Board subject to all qualifications and/or requirements of the Association's governing documents and/or the law. The designation of one of several trustees must be in writing with documentation confirming both the designation and the authority of the designator to do so.

6.5 One Directorship Only. No Member who is a natural person is permitted to be a candidate for and/or to hold multiple positions on the Board, regardless of the number of Separate Interests owned by such Member. No natural person designated by a Member who is not a natural person to be a candidate for and/or to serve on the Board is permitted to hold multiple candidacies for or positions on the Board, regardless of the number of Separate Interests owned by such Member. No Member who is not a natural person can designate more than one person to be a candidate and/or to serve on the Board, regardless of the number of Separate Interests owned by such Member.

## **ARTICLE 7: REMOVAL OF DIRECTORS**

7.1 Removal of Director by the Board. By vote at a duly noticed meeting of the Board, a majority of the Board may declare vacant the office of any Director for any of the reasons listed below. However, before any such removal may occur, the Board must, at its next open meeting or a special open meeting called for this purpose, review evidence and make a finding of whether the Director should be removed and if the Board makes such finding, the Board may remove the Director from the Board and if so, must record its findings and action in the minutes of the meeting.

- a. The Director ceases to meet the qualifications for the election of a Director.
- b. The Director has been declared of unsound mind by a final court order.
- c. The Director has been absent from more than three (3) consecutive regular meetings of the Board or more than four (4) regular meetings within any twelve (12) month period.
- d. The Director has allowed a proposed contract or other transaction to be put to the vote of the Board or membership without disclosing that he or she will receive a financial benefit from the transaction.

7.2 Removal of Directors by Membership. The entire Board, or any individual Director, may be removed from office by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present, which affirmative votes also constitute a majority of the required quorum. If a quorum or more of the Board is removed, a Membership election to replace the removed directors must be conducted at the earliest possible opportunity. The replacement election may be conducted simultaneously with the removal on the condition that the removal election is successful as long as the timing of the elections is consistent with the law. The removed Board or Director(s) will continue to serve until replaced at an election of the Membership.

7.3 Resignation. Any Director may resign by giving notice to the President, the Secretary, or the Board. The resignation will take effect upon the giving of the notice unless a later time is specified in the notice. If the resignation is effective at a future time, the resigning Director may participate in the selection of a successor to fill the vacated seat.

7.4 Vacancies. Vacancies created other than by removal by the Members may be filled by the designation of a majority of the remaining Directors, except, if there are less than a

quorum of Directors, vacancies may be filled by the unanimous designation of the remaining Directors. If the remaining Directors are unable to so designate a qualified Member to fill the vacancy, the Board may notice a special election for Members to elect replacement Directors. Each Director so appointed or elected holds office until the end of his/her predecessor's term.

## **ARTICLE 8: INSPECTOR(S) OF ELECTION**

### **8.1     Selection.**

- a.     *Process.* Before the date ballots are first sent out, the Board of Directors must, at an open meeting of the Board, select either one (1) or three (3) person(s) as Inspector(s) of Election.
- b.     *Eligible Inspector(s).* The Board may select as Inspector(s) of Election any person or entity or subdivision of a business entity not currently employed or under contract to the Association. Eligible Inspectors include, but are not limited to:
  - i.       Poll Workers. A volunteer poll worker with the County Registrar of Voters;
  - ii.      Accountants. A licensee of the California Board of Accountancy, not under contract to the Association;
  - iii.     Notary Public. A notary public commissioned by the California Secretary of State;
  - iv.      Association Members. Members of the Association, but not: (i) members of the Board, (ii) candidates for the Board, (iii) persons related to a member of the Board, or (iv) persons related to a candidate for the Board;
  - v.       Professional Inspectors. Third-party Persons or entities who provide professional election services contract with the Association solely to serve as an Inspector of Election.

### **8.2     Duties.** Duties of Inspector(s) of Election include the following:

- a.     *Membership.* Determine the number of memberships entitled to vote and the voting power of each.
- b.     *Closing and Reopening of Polls.* Determine when the polls close, including any desired extensions of the voting period, and determine whether to reopen the polls to allow Members to cast ballots if the polls were previously closed, all consistent with the Association's other governing documents.
- c.     *Receive Ballots.* Receive all ballots. Once received by an Inspector of Election, ballots are irrevocable.

- d. *Custody.* Sealed ballots, signed voter envelopes, voter list, and candidate registration list shall at all times be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) until after the tabulation of the vote and until the time allowed by Civil Code §5145 for challenging the election has expired, at which time custody shall be transferred to the Association. No person, including a Member of the Association or an employee of the management company, is permitted to open or otherwise review any ballot before the time and place at which the ballots are counted and tabulated. The Inspector(s) of Election or the Inspector(s) appointee(s) may verify the Member's information and signature on the outer envelope before the meeting at which ballots are tabulated and, on request of the Board of the Directors, will share such information with the Board to allow it to solicit votes when necessary or desirable.
- e. *Challenges.* Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote. If there is a recount or other challenge to the election process, the Inspector(s) of Election must make the ballots available for inspection and review by an Association Member or the Member's authorized representative upon written request. An Association Member may authorize a representative to review the ballots on his or her behalf. Any recount must be conducted in a manner that preserves the confidentiality of the vote.
- f. *Counting Ballots.* Count and tabulate all votes. All votes must be counted and tabulated by the Inspector(s) of Election or the Inspector(s) appointee(s) in public at a properly noticed open meeting of the Board of Directors or Members, or if the ballot counting and tabulation is conducted by video conference, as permitted by Civil Code §5450, the camera must be placed in a location to allow Members to witness the Inspector of Election doing so. During in-person ballot counting and tabulating, candidates and Members may witness, but not interfere with, the counting and tabulation of the ballot and must remain at least two (2) feet away from the Inspector(s) and his/her/their appointee(s) at all times.
- g. *Appoint Assistants.* Appoint and oversee additional independent third parties to verify signatures and count and tabulate votes as the Inspectors of Election deem appropriate provided that such persons are independent third parties.
- h. *Results.* Determine the tabulated results of the election.
- i. *Impartiality.* Perform all duties impartially, in good faith, to the best of the ability of the Inspector(s) of Election, as expeditiously as is practical, and in a manner that protects the interests of all Members of the Association. Any report made by the Inspector(s) of Election is *prima facie* evidence of the facts stated in the report.
- j. *Miscellaneous.* Perform any acts as may be proper to conduct the election with fairness to all Members under the Civil Code, the Corporations Code, the

Association's governing documents, and all applicable rules of the Association regarding the conduct of the election that are not in conflict with the Civil Code.

8.3 Removal. The Board has the power to remove any Inspector(s) who cease(s) to meet the required qualifications, are unable or unwilling to perform their duties, or for any other good reason, and to appoint one or more replacement Inspectors.

## **ARTICLE 9: ACTION BY BALLOTS**

9.1 Secret Ballots. The use of secret ballots is only necessary when required by law. When secret ballots are not required by law, elections may be conducted by secret ballot, non-secret written ballot, or any other method permitted by law. Any action which may be taken at any meeting of Members may be taken without a meeting (except to count ballots, which can be done at either a Membership meeting or a Board meeting) if the Association distributes a secret written ballot to every Member entitled to vote on the matter.

9.2 Power of Attorney. The Association cannot deny a ballot to a person with general power of attorney for a Member. The ballot of a person with a general power of attorney must be counted if timely returned.

9.3 Pre-Ballot Notice. For director and recall elections only, at least thirty (30) days before the ballots are distributed, the Association must provide general notice (or individual notice to a Member who requested it), which includes:

- a. The date, time and physical address to mail or hand-deliver ballots to the Inspector(s);
- b. The date, time and location of the ballot counting meeting; and
- c. A list of candidates to appear on the ballots.

9.4 Candidate List and Voter List. The candidate list must include the name and address of individuals nominated as a candidate for election to the board of directors. The voter list must include name, voting power, and either the physical address of the voter's Separate Interest, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's Separate Interest or if only the parcel number is used. The Association must retain, as Association election materials, both a candidate registration list and a voter list.

9.5 Verification of Lists. The Association must permit Members to verify the accuracy of their individual information on the candidate registration list, if applicable, and the voter list at least 30 days before the ballots are distributed. The Association or Member must report any errors or omissions to either list to the Inspector(s) of Election, who must make the corrections within two business days. Reports of any errors or omissions should be made early enough to make corrections before the ballots are distributed.

9.6 Ballot Package. All secret ballots mailed or otherwise delivered to the membership must include a double-envelope system and voting instructions for completing and

returning the secret ballots as provided for in the Davis-Stirling Act. Ballots seeking approval to amend or restate governing documents must be delivered to the Members with the text of the proposed amendment.

- a. *Secret Ballot – Generally.* Secret ballots must be marked to indicate the Member’s selections if any. Blank ballots will still count toward quorum requirements. Secret ballots do not require a signature but are not invalidated by Member signatures.
- b. *Secret Ballot – Content.* Ballots must: (i) set forth the proposed action; (ii) provide an opportunity to approve or disapprove each item submitted for a vote; (iii) set forth the number of ballots needed to satisfy the Quorum requirement if any; (iv) specify the percentage of votes required to pass the proposal; (v) state a deadline by which the ballot must be returned to be counted; and (vi) in the case of a director election, the candidates’ names identified in the pre-ballot notice.
- c. *Inner Envelope.* The Association will provide two envelopes. The secret ballot must be placed within an inner envelope with no identifying information. However, extraneous information written on the inner envelope will not invalidate the ballot. The secret ballot’s inner envelope is to be placed into a second outer envelope containing identifying information.
- d. *Outer Envelope.* In the upper left-hand corner of the outer envelope containing a secret ballot, the voting Member must sign his/her name and indicate (print, type, etc.) his/her name and the address entitling the voter to vote. The outer envelope must be addressed to the Inspector(s) of Election.
- e. *Delivery.* The completed outer envelope containing the inner envelope and ballot may be (1) mailed by first-class mail to the address on the outer envelope or hand-delivered to the Inspector(s) of Election as specified on the pre-ballot notice or, (2) where there is no pre-ballot notice, as specified in the voting instructions. Delivery must be made to every Member entitled to vote at least thirty (30) days before the initial voting deadline. Any Member may request a delivery receipt.

9.7 Extended Voting Deadline. The Inspector may reopen the polls and extend the voting deadline to allow additional balloting to achieve a quorum or permit additional participation by the Members in an election when desirable or appropriate. If the voting deadline is extended, the Board is empowered to adjourn the ballot-counting meeting to a date at or beyond the extended voting deadline, and Members who have not previously voted may do so up to the extended voting deadline.

9.8 Election Rules. At least thirty (30) days before the voting deadline, the Inspector(s) of Election must deliver, or cause to be delivered, the election operating rules to all Members. Such rules may be delivered (1) by individual delivery (Civil Code §4040) or (2) by posting the rules on an internet website and including the website address (URL) on the ballot with the phrase, in at least 12-point font: “The rules governing this election may be found here:”



9.9 Counting Ballots. Inspectors of election must oversee the opening and tabulating of all ballots before the membership at a properly noticed open meeting of the Board or membership as provided for in these Bylaws and the Election Rules. No person is permitted to open or otherwise review any ballot before the time and place at which the ballots are opened and counted.

## **ARTICLE 10: POST-ELECTION RESULTS**

10.1 Breaking a Tie. In the event of a tie leaving the outcome of the election unresolved, the following will apply:

- a. The Inspector(s) of Election, and any designees, will immediately conduct a recount of the ballots. If there is a charge, the Association will bear the expense. Members may observe the recount under the same conditions as the original ballot counting.
- b. Following the immediate recount, all other newly elected Directors will immediately begin serving their terms if the tie remains. An incumbent Director whose seat was tied will continue in office until a runoff election determines the winner for his/her seat. Only candidates who tied for the seat will be in the runoff.
- c. In lieu of a runoff and if the tied candidates agree, the winner may be decided by a coin toss or the drawing of names by the Inspector(s) of Election.

10.2 Results of an Election. The tabulated results of the election must be announced immediately after all the ballots have been counted. The tabulated results of the election must be promptly reported to the Board of Directors and must be recorded in the minutes of the next Board meeting. Within fifteen (15) days of the election, the Board must publicize the tabulated results of the election in a communication directed to all Members.

10.3 Handling and Storage of Election Materials after the Election. The sealed ballots, signed voter envelopes, voter list, and candidate registration list shall at all times be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) until after the tabulation of the vote, and until the time allowed by Civil Code §5145 for challenging the election has expired, at which time custody must be transferred to the Association. The Association must maintain Association election materials for one year after the election.

10.4 Election Recount or Other Challenge. If there is a recount or other challenge to the election process, the Inspector(s) of Election shall, upon written request, make the ballots available for inspection and review by an Association Member or the Member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote. Election recounts, other than the automatic recount following a tie leaving the outcome of an election unresolved, will be conducted as follows:

- a. Any Member of the Association may demand a recount of the ballots provided (i) demand is made in writing to the Inspector(s) of Election within five (5) days after the election results have been announced, and (ii) the Member pays in advance for the estimated cost of the recount, which estimate will be provided by

the Inspector(s) of Election. Monies advanced by the Member must be refunded if the recount changes the election outcome.

- b. The recount must be commenced within seven (7) days of the request for the recount and must be done by or under the supervision of the Inspector(s) of Election. If any Inspector of Election declines to perform the recount, the Board may appoint a replacement Inspector of Election, using the criteria specified in these rules, and the replacement Inspector will assume custody of the ballots.
- c. Members of the Association may observe any recount. No election materials may be touched or handled by any person without the express consent of the Inspector(s) of Election and under the supervision of the Inspector(s). The recount results must be reported to the Board of Directors, recorded in the next board meeting minutes, and reported to the membership.

## **ARTICLE 11: ROLE OF BOARD OF DIRECTORS**

11.1 Powers. The Board controls the business and affairs of the Association. In addition to the powers and duties outlined in the Association's Governing Documents, the Board is empowered to perform any and all other acts that a nonprofit mutual benefit corporation is empowered to do in the administration of the Association's affairs and to protect and advance the general welfare of the Association.

11.2 Enactment of Rules. The Board may adopt, amend, and repeal Rules and Regulations and establish a system of fines and penalties regarding any matter outlined in the Governing Documents, including, without limitation, (i) the use, occupancy, and maintenance of the Development, (ii) the general health, welfare, comfort, and safety of residents in the Development, (iii) the conduct of persons within the Development, (iv) the use of Common Areas, and (v) the interpretation and implementation of the Governing Documents. The Board must use the following procedure for adopting Rules and Regulations:

- a. *Distribution to Members*. The proposed Rules must be distributed to the membership at least twenty-eight (28) days (unless the law provides a different minimum and, if so, at least that number of days) before an open Board meeting. The board will vote on adopting the rules. The distribution must include a notice of the meeting and a description of the purpose and effect of the proposed Rules.
- b. *Vote on Rules*. At the scheduled Board meeting, the Board must vote on adoption, amendment, or repeal of the Rules after considering any comments received from Members on this issue.
- c. *Approved Rules*. Within fifteen (15) days of approving the Rules, the Association must distribute notice of the Rules change to the membership.
- d. *Applicability*. This section applies only to Rules that relate to (i) use of the Common Area, Exclusive Use Common Areas, or Separate Interests; (ii) architectural modifications by the Members, including procedures for architectural approval; (iii) Member discipline, including fine schedules and

procedures for imposing discipline; (iv) standards for payment plans for Members' delinquent assessments; (v) dispute resolution procedures; and (vi) election procedures. This section does not apply to (i) Common Area maintenance; (ii) decisions on specific situations that are not intended to apply generally; (iii) assessment rates; or (iv) Rules changes or the issuance of other documents that are required by law or that repeat existing law or the Governing Documents if the Board has no discretion as to the substantive effect of the change.

- e. *Member Vote to Reverse Rule Change.* A rule change may be reversed by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a Quorum is present. A rule that is reversed under this section may not be re-adopted for one (1) year after the membership vote reversing the rule change. However, the Board may adopt a different Rule on the same subject as the Rule change that had been reversed.

11.3 No Compensation. No Officer or Director is permitted to receive compensation for services rendered to the Association. However, Officers and Directors may be reimbursed for actual expenses incurred in the performance of their duties. Any Officer or Director requesting reimbursement for expenses must provide appropriate documentation, such as a receipt, to the Board before being reimbursed by the Association.

11.4 Conflicts of Interest. The Association is not permitted to enter into any contract with any party in which any Officer or Director of the Association, the Manager, management company, or any employee of the Association has a direct or indirect economic interest in the contract without (i) full disclosure of the interest to the Board; (ii) full disclosure of the interest in the minutes of the Board meeting where the discussion occurred; and (iii) recusal by the interested party from deliberations and voting on the issue.

11.5 Duty to Defend. The Association must indemnify and defend and must advance reasonable attorneys' fees and costs and all expenses and liabilities its Officers, Directors, Committee members, and employees reasonably incur in connection with any proceeding to which they may be a party because of having been an Officer, Director, Committee member, or employee of the Association. However, the Association may recover its attorneys' fees and costs from those persons who are adjudged to have acted in bad faith or gross negligence in the performance of their duties or to be liable to the Association (unless the Court determines that the person is fairly and reasonably entitled to indemnity for expenses).

## **ARTICLE 12: MEETINGS OF THE BOARD**

12.1 Member Notice of Board Meetings. Members must be given an agenda and notice of the date, time and place of an (i) open session Board meeting at least four (4) calendar days before the meeting, or (ii) executive session Board meetings at least two (2) calendar days before the meeting. The notice and agenda may be given by posting the notice in a prominent place or places accessible to all Members and which have been designated for the posting of notices by the Association in the annual policy statement, by mail or delivery of the notice to each Separate Interest, by newsletter, inclusion in a billing statement or other properly delivered document, by

broadcast television programming, or as otherwise permitted in the Davis-Stirling Act. An emergency meeting of the Board may be called if there are circumstances that could not have been reasonably foreseen which require immediate attention by the Board. In such instances, the Board must give notice, as may be reasonable and practical.

12.2 Director Notice of Board Meetings. Notice of Board meetings must be given to each Director, at least four (4) calendar days before an open meeting or at least two (2) calendar days before an executive session meeting, to the address, phone number, fax number, or email address listed on the Association's records for the Director.

12.3 Waiver of Notice. Notice of a meeting need not be given to a Director who (1) provided a waiver of notice or consent to holding the meeting or (2) provided approval of the minutes thereof in writing, whether before or after the meeting, or (3) who attends the meeting without protesting the lack of notice to that Director, prior thereto or at its commencement. The waivers, consents and approvals referenced in this section must be filed with the corporate records or made a part of the minutes of the meetings.

12.4 Place of Meetings. All meetings of the Board must be held at a place in or near the Development designated by the Board or at a suitable location in or reasonably close to the Development.

12.5 Regular Meetings. Meetings of the Board must be held at least once per month, although the Board may, for good reason, waive a monthly meeting. The "good reason" must be stated in the next Board meeting minutes.

12.6 Special Meetings. Special meetings of the Board may be called by the President or by a majority of the Board. Such meetings may be held upon four (4) days' notice for open session meetings and upon two (2) days' notice for executive session meetings. In the event of an emergency, the Board may meet with less notice but must post such notice to the membership and must note in the minutes of the meeting the reason why more notice could not be given.

12.7 Executive Sessions. Executive session meetings of the Board may be held as authorized by statute. Such purposes include but are not limited to (i) litigation; (ii) the formation of contracts with third parties; (iii) Member discipline; (iv) personnel matters; (v) meeting with a Member to consider a payment plan for delinquent assessments; and (vi) to vote on the foreclosure of a delinquent assessment lien. Any matters considered in the executive session must be generally noted in the next open meeting minutes.

12.8 Quorum of Directors. A majority of the number of Directors authorized in the Bylaws constitutes a quorum of the Board for the transaction of business. Directors may not attend Board meetings by proxy and may not vote by proxy.

12.9 No Action Outside Meetings. The Board is not permitted to take action on any "item of business" (as defined in the Davis-Stirling Act) outside of a Board meeting.

12.10 Adjournment of Board Meetings. A majority of the Directors present at a meeting, whether or not a quorum is present, may adjourn any Board meeting to a stated day and hour. If the meeting is adjourned for more than twenty-four (24) hours, before the adjourned meeting is

held, a notice of the adjournment must be given to Directors who were not present at the time of the adjournment.

12.11 Attendance by Members. Members are entitled to attend regular and special (non-executive session) meetings of the Board. A reasonable amount of time must be set aside during the meeting for Members to address the Board, as provided for in the Davis-Stirling Act.

12.12 Conduct of Board Meetings. The Board may establish Rules for the orderly conduct of its meetings. In the President's absence, Board meetings must be conducted by the Association's President or an Officer or Director designated by the Board.

12.13 Teleconference. Directors and Members may participate in a Board meeting using a conference telephone, electronic video screen, or similar communications equipment, so long as the meeting is conducted in a manner permitted in Civil Code §§4090 and 5450. Participation in a meeting under this section by Directors or Members constitutes presence in person at such meeting.

12.14 Minutes of Meetings. The minutes, minutes proposed for adoption that is marked as draft, or a summary of the minutes of Board meetings, other than executive session meetings, must be available to Members within thirty (30) days of the meeting and must be distributed to any Member upon request and upon reimbursement of the Association's cost.

12.15 Recording of Meetings. Audio and video recording of meetings is prohibited by anyone other than a person authorized by the Board to record the meetings for the sole purpose of preparing official Association minutes.

## **ARTICLE 13: OFFICERS**

13.1 Number. The Officers are President, Vice President, Secretary, Treasurer, each of whom must be a Director, and such other Officers as the Board may designate. The President may not hold more than one (1) office; however, any two (2) of the remaining offices may be held by a single person.

13.2 Election of Officers. The Board must meet to select the Officers of the Association immediately after or as soon as practicable after the results of the election of Directors are announced. If the meeting of the Board for selection of Officers occurs at a separate meeting from the one where the Directors were elected, the Board must give notice to all Members, consistent with notice requirements. Notice of the organizational meeting must be given during the annual meeting. If the meeting is held immediately following the annual meeting, notice to the newly elected Directors is not necessary to legally constitute the meeting, provided that a majority of the Board is present.

13.3 Term of Office. Officers hold office at the pleasure of the Board. Officers must be appointed by the Board and hold office until the annual election of Directors, or they resign, are removed, or are otherwise disqualified from serving. Within thirty (30) days of any election of Directors resulting in a change in the membership on the Board, the Board must reappoint Officers. The same persons may be appointed to the same offices.

13.4 Removal and Resignation. Any Officer may be removed at any time by the vote of a majority of all the Directors then in office, at any regular or special meeting of the Board at which a quorum is present. Any Officer may resign by giving written or verbal notice to the Board at any time. Any such resignation will take effect on the date the notice is given unless a later date is specified in the notice.

13.5 Vacancies. A vacancy in any office, because of death, resignation, removal, disqualification, or any other cause, must be filled in the manner prescribed in these Bylaws for regular appointments to such office.

13.6 President. The President is the principal executive Officer of the Association and, subject to the control of the Board, supervises, directs, and controls all of the business and affairs of the Association. The President presides at all meetings of the Board, has the general powers and duties of management usually vested in the office of the President of a corporation, and has such other powers and duties as may be prescribed by the Board or these Bylaws. The President acts as the spokesperson (or liaison) between the Manager and the Board unless the Board directs otherwise.

13.7 Vice President. In the absence or disability of the President, the Vice President must perform all duties of the President. The Vice President has such other powers and will perform such other duties as may be prescribed by the Board or these Bylaws from time to time.

13.8 Secretary. The Secretary must keep or cause to be kept in the management office: (i) minutes of all meetings of the Board and the membership; (ii) the names of all Members of the Association and their addresses; and (iii) such other records of the Association's affairs as may be necessary and proper. The Secretary must give or cause to be given notice of all meetings of the Members and of the Board that is required by the Bylaws or by law and has such other powers and performs such other duties as may be prescribed by the Board or by these Bylaws.

13.9 Treasurer. The Treasurer must keep or cause to be kept accounts of the monies, properties, and business transactions of the Association. The Treasurer must cause to be deposited all monies and other valuables, in the name and to the credit of the Association, with such depositories, as may be designated by the Board. The Treasurer must cause to be disbursed the funds of the Association as may be ordered by the Board, must render to the President and Directors, whenever they request it, an account of the Association's transactions and the financial condition of the Association, which must be made a part of the minutes of Board meetings, and has such other powers and performs such other duties as may be prescribed by the Board or these Bylaws.

13.10 Assistant Treasurer and Assistant Secretary. The Board may appoint one (1) or more Assistant Treasurers or Assistant Secretaries, who need not be Members of the Association, to assist the Officers in their duties.

13.11 Parliamentarian. The Board may also appoint a Parliamentarian to advise it on matters of parliamentary procedure.

## ARTICLE 14: COMMITTEES

14.1 Establishment of Committees. The Board may establish Committees as it deems appropriate and necessary to advise and assist the Board in carrying out its duties. The Board is empowered to specify the task of each Committee, limit the number of members of any Committee, appoint non-Members to Committees, limit the term of the Committee, and appoint Committee chairpersons, who need not be Directors. The Board may appoint committee chairpersons and, if not appointed, may be elected by members of the Committee.

14.2 Term of Office. Committees dissolve automatically at each annual meeting to be reappointed by the new Board at the Board's discretion. Individual Committee members and Committee chairs may be added or removed at any time by the Board, with or without cause.

14.3 Committee Authority. Except as may be otherwise provided in the Governing Documents, Committees are advisory only and have no authority to spend Association monies, enter into contracts, or direct Association personnel or vendors.

14.4 Member Comments. Each Committee must receive comments and complaints from Members on any matter within its field of responsibility. Committees must handle or dispose of such comments or complaints as they deem appropriate or refer them to any other Committee, Director, or Officer of the Association also involved in that matter or the Board.

14.5 No Compensation. Committee membership is voluntary, and members are not permitted to be compensated for their services. However, Committee members are permitted to be reimbursed for reasonable expenses incurred in the performance of their duties.

14.6 Meetings. Committees must meet from time to time as necessary to perform their duties. Committees must make interim reports to the Board and make a final report to the Board upon completion of their tasks.

14.7 Conflicts of Interest. No Committee member may participate in or make recommendations on any matter that involves a Committee member or a member of his/her own family or a Committee member or a member of his/her family has a direct or indirect financial interest.

14.8 Executive Committee. The Board may appoint Executive Committees as provided for by law.

## ARTICLE 15: BUDGETS, RESERVES, AND FINANCIAL STATEMENTS

15.1 Review of Accounts. The Board must do the following not less frequently than monthly, per the Davis-Stirling Act:

- a. *Operating Accounts.* Cause a current reconciliation of the Association's operating accounts to be made and to review the same.
- b. *Reserve Accounts.* Cause a current reconciliation of the Association's Reserve Accounts to be made and to review the same.

- c. *Actual to Budget.* Review the current year's actual revenues and expenses compared to the current year's budget for the Association's Operating and Reserve Accounts.
- d. *Bank Statements.* Review and cause to be reconciled the most current account statements prepared by the financial institution where the Association has its Operating and Reserve Accounts.
- e. *Income and Expense Statements.* Review an income and expense statement for the Association's Operating and Reserve Accounts.
- f. *Register, Ledger, and Delinquencies.* Review the check register, monthly general ledger and delinquent assessment receivable reports.

15.2 Operating Budget. The Board must annually prepare an estimated operating budget for the next fiscal year. The budget must include the following, per the Davis-Stirling Act:

- a. *Revenue and Expenses.* The estimated revenue and expenses on an accrual basis;
- b. *Reserves.* A summary of the Association's Reserves, based upon the most recent review or study, which must be printed in bold type and include: (i) the current estimated replacement cost, estimated remaining life, and estimated useful life of each major component; (ii) the current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components; and (iii) the current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components, as of the end of the fiscal year for which the study is prepared;
- c. *Special Assessments.* A statement as to whether the Board has determined or anticipates that the levy of one or more Special Assessments will be required to repair, replace, or restore any major component or to provide adequate Reserves therefor;
- d. *Reserve Procedure.* A general statement addressing the procedures used for the calculation and establishment of Reserves to defray the costs of future repair, replacement, or additions to those major components that the Association is obligated to maintain;
- e. *Summary in Lieu of.* In lieu of the distribution of the budget, the Board may elect to distribute a summary of the budget to all Members, with a written notice, in at least 10-point boldface type on the front page of the summary, that the budget is available at the business office of the Association or another suitable location and that copies will be provided upon request, at the Association's expense;
- f. *Revised Budget.* If the Board, in its reasonable discretion, deems it necessary at any time during its fiscal year to adjust or modify the budget, it may do so, and



copies of the revised budget must be sent to all Members within thirty (30) days of its adoption by the Board.

15.3 Annual Review. An annual review of the financial statement of the Association must be prepared following the Generally Accepted Accounting Principles by a licensee of the California State Board of Accountancy. A copy of the financial statement review must be distributed to all Members within one hundred twenty (120) days after the close of each fiscal year.

15.4 Reserve Study. A Reserve Study must be conducted at least once every three (3) years and include a site-review study of the Reserve account. The Reserve Study must be reviewed annually, and at a minimum, include:

- a. *Major Components*. Identification of those major components of the Common Areas which the Association is obligated to repair, replace, restore, or maintain;
- b. *Remaining Life*. Identification of the probable remaining useful life of the components, as of the date of the study;
- c. *Cost to Repair or Replace*. An estimate of the cost of repair, replacement, restoration, or maintenance of the components during and at the end of their useful life;
- d. *Annual Contribution*. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components during and at the end of their useful life, after subtracting total Reserve funds as of the date of the study;
- e. *Reserve Funding Plan*. A reserve funding plan that indicates how the Association plans to fund the annual contribution to meet the Association's obligations for the repair and replacement of all major components with an expected remaining life of thirty (30) years or less, not including those components that the Board has determined will not be replaced or repaired. The plan must include a schedule of the date and amount of any change in regular or special assessments that would be needed to sufficiently fund the reserve funding plan. The Board of Directors must adopt the plan at an open meeting before the membership of the Association. If the Board of Directors determines that an assessment increase is necessary to fund the reserve funding plan, any increase must be approved in a separate action of the Board.

15.5 Approval of IRS Resolution. A majority of the Membership present at a Membership meeting may approve an IRS Resolution that any excess income for the current year will be applied to the next fiscal year, as provided by IRS Revenue Ruling 70-604 or any other applicable IRS Revenue Ruling. Neither written balloting (secret or non-secret) nor a Quorum is required for this approval.

## **ARTICLE 16: INSPECTION OF RECORDS**

16.1 Maintenance of Records. The Association must keep or cause to be kept records of the Association as follows:

- a. A membership register, setting forth all names, mailing addresses, and telephone numbers of the Members (as may be changed from time to time by written notice from the Member to the Board of Directors);
- b. The Association's books and records, membership lists, governing documents, minutes of meetings, and any other documents relevant to the Association must be kept in written form or any other form capable of being converted into clearly legible paper form and must be retained according to the Association's document retention policy and applicable law;
- c. Financial records and books of account of the Association, including a chronological listing of all receipts and expenditures of funds and a separate account for each Assessment, levied or charged against each Separate Interest or Member, the dates when so assessed and when due, the amounts paid thereon, and the balance, if any, of any Assessment remaining unpaid; and
- d. All other documents required to be made available to Members under this Article must be kept for at least the time frame during which Members are entitled to inspect them, as stated below.

16.2 Records Subject to Inspection. The Association must make the following documents available for inspection and copying by any Member or a representative designated in writing by the Member:

- a. Any financial document or statement required to be distributed annually to Members;
- b. Interim unaudited financial statements, periodic or as compiled, containing any of the following, which must be prepared following Generally Accepted Accounting Principles: (i) balance sheet; (ii) income and expense statement; (iii) budget comparison; and (iv) general ledger, showing all transactions that occurred in Association's account over a specified period;
- c. Executed contracts, not otherwise privileged under the law;
- d. Written board approval of vendor or contractor proposals or invoices;
- e. State and federal tax returns;
- f. Reserve account balances and records of payments made from Reserve Accounts;

- g. Agendas and minutes of meetings of the Members, the Board, and any Committees appointed by the Board; excluding, however, minutes, and other information from executive sessions of the Board;
- h. Check registers;
- i. The Association's Governing Documents;
- j. An accounting prepared according to Civil Code §5520(b) or any successor statute;
- k. "Enhanced Association Records" which are defined as invoices, receipts, and canceled checks for payments made by the Association, purchase orders approved by the Association, credit card statements for credit cards issued in the name of the Association, statements for services rendered, and reimbursement requests submitted to the Association, provided that the person submitting the reimbursement request is solely responsible for removing all personal identification information from the request;
- l. The Association's membership list, including each Member's name, property address, mailing address and email address, but may not include information for members who have opted out under the Davis-Stirling Act. The Member requesting the list must state the purpose for which the list is requested, which purpose must be reasonably related to the requester's interest as a Member. If the Association reasonably believes that the information in the list will be used for another purpose, it may deny the Member access to the list; and
- m. "Association Election Materials," which means returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, and the candidate registration list. Signed voter envelopes may be inspected but may not be copied.

16.3 Records Not Subject to Inspection. The following records are not subject to inspection:

- a. Executive session minutes of the Board;
- b. Personnel records (other than payroll records);
- c. Litigation files or records protected by the attorney-client privilege;
- d. Pending contracts;
- e. Legal invoices (however, Members do have the right to know how much money is being spent on legal matters);
- f. Records likely to lead to identity theft;

- g. Records likely to lead to fraud;
- h. Records reasonably likely to compromise the privacy of an individual Member (such as owner records, including goods or services provided to Members for which the Association received monetary consideration other than assessments);
- i. Disciplinary actions, collection activities, or payment plans of other Members;
- j. Personal information, including a social security number, tax id number, driver's license number, credit card account numbers, bank account number, or bank routing number; and
- k. Interior architectural plans for individual homes.

16.4 Limitation on Availability of Records. As provided for in the Davis-Stirling Act, Association records for the current fiscal year and each of the previous two (2) fiscal years must be made available for inspection and copying. However, minutes of Member meetings, Board meetings, and meetings of Committees with decision-making authority must be permanently available for inspection and copying. All records are subject to redacting, as provided for by law.

16.5 Deadlines for Producing Records. Associations must produce records within the following time frames according to the Davis-Stirling Act:

- a. Minutes of Member and Board meetings: within thirty (30) calendar days of the meeting;
- b. Minutes of Committees with decision making authority: within fifteen (15) calendar days following approval of the minutes;
- c. Records for the current fiscal year: within ten (10) business days from receipt of the request;
- d. Records for the previous two (2) fiscal years: within thirty (30) calendar days from receipt of the request;
- e. Any record or statement available according to Civil Code §5300 (budget, reserves, lien policies, insurance, financial statement, etc.) or Civil Code §4525 (governing documents, assessments, violations, construction defects, etc.), or any successor statutes within the timeframes specified by statute;
- f. Membership list: within five (5) business days of the Association's receipt of a Member's written request.

16.6 Inspection and Copying Procedure. The Association must make the above Association records available for inspection and copying in the Association's business office within the Development. If the Association does not have a business office within the Development, the Association must make the specified Association records available for inspection and copying at a place agreed upon by the Member and the Association. If the

Association and the Member cannot agree upon a place for inspection and copying, or if the Member requests, in writing, copies of specifically-identified records, the Association may mail copies of the requested records to the Member by first-class mail.

16.7 Redacting Information. The Association may withhold or redact information from the Association records, as provided for by law.

16.8 Members' Use of Records. Members may not sell Association records, use them for commercial purposes, or use them for any purpose not reasonably related to their interest as a Member of the Association.

16.9 Production Fees. The Association may bill the requesting Member, including a Director, for copying, redacting, and mailing the requested records as permitted by the Davis-Stirling Act.

## **ARTICLE 17: DISCLOSURES**

17.1 Distribution of Disclosures. The Board may distribute documents and disclosures electronically to those members who have given written consent. Otherwise, all documents must be distributed by "first-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier." The annual budget report and annual policy statement must be made available to the members as a full report or a summary of the report as provided for in Civil Code §5320.

17.2 Annual Budget Report. The Board must distribute an annual budget report thirty (30) to ninety (90) days before the end of its fiscal year, including all of the following information:

- a. A pro forma operating budget, showing the estimated revenue and expenses on an accrual basis.
- b. A summary of the Association's reserves prepared according to Civil Code §5565.
- c. A summary of the reserve funding plan adopted by the Board, as specified in paragraph 5 of subdivision (b) of Civil Code §5550. The summary must include notice to members that the full reserve study plan is available upon request, and the Association must provide the full reserve plan to any member upon request.
- d. A statement as to whether the Board has determined to defer or not undertake repairs or replace any major component with a remaining life of thirty (30) years or less, including a justification for the deferral or decision not to undertake the repairs or replacement.
- e. A statement as to whether the Board, consistent with the reserve funding plan adopted according to Civil Code §5560, has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor. If so, the

statement must also set out the estimated amount, commencement date, and assessment duration.

- f. A statement as to the mechanism or mechanisms by which the Board will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacements or repairs, or alternative mechanisms.
- g. A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the Association is obligated to maintain. The statement must include, but need not be limited to, reserve calculations made using the formula described in paragraph (4) of subdivision (b) of Civil Code §5570 and may not assume a rate of return on cash reserves above two percent (2%) above the discount rate published by the Federal Reserve Bank of San Francisco at the time the calculation was made.
- h. A statement as to whether the Association has any outstanding loans with an original term of more than one year, including the payee, interest rate, amount outstanding, annual payment, and when the loan is scheduled to be retired.
- i. A summary of the Association's property, general liability, earthquake, flood, and fidelity insurance policies. For each policy, the summary must include the insurer's name, the type of insurance, the policy limit, and the deductible amount, if any. To the extent that any required information is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it with the annual budget report. The summary distributed according to this paragraph must contain, in at least 10-point boldface type, the following statement:

This summary of the Association's policies of insurance provides only certain information, as required by section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult with their individual insurance broker or agent for appropriate additional coverage.

- j. A statement describing the status of the common interest development as a Federal Housing Administration (FHA)-approved condominium project pursuant to FHA guidelines, including whether the common interest development is an FHA-approved condominium project, as required by Civil Code §5300(b)(10).
- k. A statement describing the status of the common interest development as a federal Department of Veteran Affairs (VA)-approved condominium project pursuant to VA guidelines, including whether the common interest development is an VA-approved condominium project, as required by Civil Code §5300(b)(11).
- l. A copy of the completed “Charges For Documents Provided” disclosure identified in Civil Code §4528. For purposes of this section, “completed” means that the “Fee for Document” section of the form individually identifies the costs associated with providing each document listed on the form.

17.3 Assessment and Reserve Funding Disclosure Summary Form. The Assessment and Reserve Funding Disclosure Summary form prepared according to Civil Code §5570 must accompany each annual budget report or summary.

17.4 Annual Policy Statement. Within thirty (30) to ninety (90) days before the end of its fiscal year, the Board must distribute an annual policy statement that provides the members with information about Association policies. The annual policy statement must include all of the following information:

- a. The name and address of the person designated to receive official communications to the Association, according to Civil Code §4035;
- b. A statement explaining that a member may submit a request to have notices sent to up to two (2) different specified addresses, according to Civil Code §4040(b);
- c. The location, if any, designated for posting of a general notice, according to Civil Code §4045(a)(3);
- d. Notice of a member’s option to receive general notices by individual delivery, according to Civil Code §4045(b);
- e. Notice of a member’s right to receive copies of meeting minutes, according to Civil Code §4950(b);
- f. The statement of assessment collection policies required by Civil Code §5730;
- g. A statement describing the Association’s policies and practices in enforcing lien rights or other legal remedies for default in the payment of assessments;
- h. A statement describing the Association’s discipline policy, if any, including any schedule of penalties for violations of the governing documents according to Civil Code §5850;

- i. A summary of dispute resolution procedures, according to Civil Code §§5920 and 5965;
- j. A summary of any requirements for the Association approval of a physical change to the property, according to Civil Code §4765;
- k. The mailing address for overnight payment of assessments, according to Civil Code §5655; and
- l. Any other information required by law or the governing documents or that the Board determines to be appropriate for inclusion.

17.5 Minutes. The Board must notify Members of their right to receive minutes and how and where those minutes may be obtained when the budget is distributed or at the time of any general mailing to the entire membership of the Association.

17.6 Financial Statement. The Board must annually distribute to the Members a review of the Association's financial statement for any fiscal year in which the gross income of the Association exceeds \$75,000 within one hundred twenty (120) days of the close of the fiscal year, all according to Civil Code §5305.

17.7 Reserve Transfers for Litigation. The Board must notify Members, in its next available mailing, of any transfers from Reserves to pay for litigation according to Civil Code §5520.

17.8 Other Disclosures as Required by Law. The Board must make such other applicable disclosures as are required by law.

## **ARTICLE 18: RULES ENFORCEMENT AND DISPUTE RESOLUTION**

18.1 Rules Enforcement Procedures. Voting rights may not be suspended. Other Membership privileges may not be suspended, or fines imposed, except as follows:

- a. *Notice of Hearing*. The Board must set a hearing date and notify the Member in writing at least ten (10) days in advance, either personally or by prepaid first-class or registered mail to the most recent address of the Member as shown on the Association's records. The notice must set forth the date and nature of the violation, the proposed penalty, and the Member's right to present evidence in his or her defense, either in writing or in person, at the hearing.
- b. *Hearing*. The hearing must be held in an executive session.
- c. *Notice of Decision*. Within fifteen (15) days after the Board's decision on whether to impose a penalty or fine, a notice of the decision must be given to the Member, which must specify the violation and the penalty imposed. If the Association suspends Membership privileges, the suspension does not take effect until five (5) days after the notice of decision is given to the Member.



18.2 Internal Dispute Resolution. If the Association and a Member are involved in a dispute involving their rights, duties, or liabilities under California law or the Governing Documents, either the Association or the Member may request internal dispute resolution, as provided for in the Association's Rules and Regulations, according to the Davis-Stirling Act.

18.3 Pre-Litigation Dispute Resolution. Before filing suit for actions for declaratory, injunctive, or writ relief, either alone or in conjunction with a money claim in an amount within the jurisdiction of the small claims court, the party seeking to litigate the matter must offer alternative dispute resolution, according to the procedures described in the Civil Code §5930.

## **ARTICLE 19: MISCELLANEOUS**

19.1 Fiscal Year. The fiscal year of the Association must be a calendar year unless the Board adopts a different fiscal year.

19.2 Singular Includes Plural. Regardless of the number and gender specifically used, words used herein are deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

19.3 Conflicts. In the case of any conflict, the CC&Rs prevail over the Articles of Incorporation, which prevail over the Bylaws, and the Bylaws prevail over the Rules.

19.4 Amendments. These Bylaws may be modified, amended, or replaced with new Bylaws as follows:

- a. *Amendment by Members*. These Bylaws may be modified, amended, or replaced with new Bylaws by the affirmative vote of a majority of the votes represented and voting in a duly held election in which a quorum is represented.
- b. *Amendment to Conform to Statute*. If at any time a provision in these Bylaws contradicts current law, according to a written opinion of the Association's legal counsel, the Board of Directors will have the authority, on the unanimous approval of the Directors and without the approval of the Members, to amend that provision, but only to the extent necessary to render the provision compliant with applicable law.

### **CERTIFICATION**

WE CERTIFY this \_\_\_\_\_ day of \_\_\_\_\_, 2022 that these Restated Bylaws have been duly approved and adopted by the membership of Eucalyptus Grove Homeowners Association.

EUCALYPTUS GROVE HOMEOWNERS ASSOCIATION

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

**Recording Requested By:**

Eucalyptus Grove Homeowners Association

**When Recorded, Mail To:**

Eucalyptus Grove Homeowners Association  
c/o Adams Stirling PLC  
2566 Overland Avenue, Suite 730  
Los Angeles, CA 90064

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*Space above this line for recorder's use*

# **DRAFT 2**

## **RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

### **EUCALYPTUS GROVE HOMEOWNERS ASSOCIATION**

**a California nonprofit mutual-benefit corporation**

**If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income, as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

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# **FIRST RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

## **EUCALYPTUS GROVE HOMEOWNERS ASSOCIATION**

a California nonprofit mutual-benefit corporation

THIS FIRST RESTATED Declaration of Covenants, Conditions and Restrictions (“CC&Rs”) is made by all Persons who own Units in that certain real property condominium development known as “Eucalyptus Grove” located in Santa Barbara County, California. These CC&Rs apply to and bind all properties previously covered by covenants, conditions and restrictions. Without reducing the number of properties covered by these CC&Rs, these CC&Rs applies to the following properties:

Lots 1 through 3, inclusive, of Tract Map 13,421 in the County of Santa Barbara, State of California, according to the map thereof filed in Book 127, pages 55 and 56 of Maps in the Office of the County Recorder of said County.

By this instrument, except for any recorded covenants affecting only a single Unit in the properties covered by these CC&Rs, the Members of the Association hereby fully amend and restate, in their entirety, all previous declarations of covenants, conditions and restrictions recorded on August 1, 1985, as Document No. 1985-040003 in the Office of the Recorder for Santa Barbara County, as well as all amendments and supplements to such CC&Rs and substitute in their place these CC&Rs, which:

1. *Benefit Members.* Are for the benefit of Members of the Association;
2. *Benefit the Development.* Are for the benefit, enhancement and protection of the desirability, value and attractiveness of the Development and each Unit therein;
3. *Bind Successors in Interest.* Inure to the benefit of and are binding upon each successor in interest of the Association, each Member, Tenant, Resident, and occupant of any portion of the Development, as well as their respective heirs, personal representatives, grantees, Tenants, licensees, successors and assigns; and
4. *Run with the Land.* Run with the land and be binding upon all parties having or acquiring any right, title or interest in the Development or any portion of the Development, whether as sole Owners, joint Owners, Tenants, Residents, occupants or otherwise.

NOW, THEREFORE, all Units in the Development, as well as any conveyance, transfer, sale, assignment, rental, lease or sublease of a Unit, are deemed to incorporate the provisions of these CC&Rs. Each successor in interest is subject to all covenants, conditions, and restrictions in these CC&Rs.



## **ARTICLE 1: DEFINITIONS**

- 1.1 “Annual Meeting” means the annual meeting of the Members of the Association.
- 1.2 “Architectural Standards” means those rules and guidelines which govern the making of physical changes, alterations, repairs or improvements to Units, Common Areas and Exclusive Use Common Areas.
- 1.3 “Articles” means the Association’s Articles of Incorporation.
- 1.4 “Assessment” means any Regular Assessment, Special Assessment, Reimbursement Special Assessment, or any other assessment levied, imposed, or assessed against a Member’s Unit under the provisions of the Governing Documents or applicable law.
- 1.5 “Association” means the Eucalyptus Grove Homeowners Association, a California nonprofit, mutual-benefit corporation. When the context requires, the Association includes its Officers, Directors, employees and agents.
- 1.6 “Balcony” refers to a balcony attached to a Unit and accessible through the Unit.
- 1.7 “Board” or “Board of Directors” means the Board of Directors of the Association.
- 1.8 “Budget” means a projection or estimation of the Association’s income and expenses for a twelve (12) month period.
- 1.9 “Building” means any building or structure which is part of the Improvements of the Development.
- 1.10 “Bylaws” means the duly adopted Bylaws of the Association, including any amendments.
- 1.11 “CC&Rs” means this First Restated Declaration of Covenants, Conditions and Restrictions and any amendments to these CC&Rs.
- 1.12 “Committee” means any committee appointed by the Board to assist in the management and administration of the affairs of the Association.
- 1.13 “Common Area” means the entire Development, except the Separate Interests owned by Members.
- 1.14 “Common Expenses” means the costs, expenses and charges in connection with maintaining, managing, insuring, operating, repairing, improving or replacing the Common Areas or managing the affairs of the Association. Common Expenses include, but are not limited to, those amounts reasonably necessary for Reserves.

1.15 “Condominium” means a condominium, as defined in the Davis-Stirling Act.

1.16 “Condominium Plan” means the diagrammatic descriptions of the Development that identifies the boundaries of Units, some or all of the Exclusive Use Common Areas and the Common Area as recorded in the Office of the Recorder of Santa Barbara County and any amendments thereto.

1.17 “Davis-Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act, which is the portion of the California Civil Code beginning with Section 4000 that governs common interest developments.

1.18 “Decorate” means for a Member to make improvements which are not visible to other Members, do not penetrate walls, ceilings or floors, do not add hard-surfaced flooring to Balconies, Patios or Units, do not increase acoustical transmission to surrounding Units or Common Areas, or require permits from applicable governmental authorities.

1.19 “Development” means that certain residential development known as “Grove HOA” and is located at 7602-7640 Hollister Avenue, Goleta, California.

1.20 “Director” means any member of the Association’s Board of Directors.

1.21 “Exclusive Use Common Areas” includes but is not limited to the following:

- a. Those portions of the Common Area that serve a single Unit.
- b. All Utility Lines or portion thereof when removal would interrupt service to only a single Unit.
- c. All Balconies, Patios and Heating Areas as shown on and defined in the Condominium Plan

1.22 “Governing Documents” means these CC&Rs and any other documents which govern the operation of the Association, including, but not limited to, the Articles of Incorporation, Bylaws, Architectural Standards, Condominium Plan, Rules and Regulations, and Election Rules, as may be amended from time to time.

1.23 “Heating Area” means the area located above the highest interior finished ceiling of certain Units as shown on and defined in the Condominium Plan.

1.24 “Improvements” means all buildings and other structures located within the Development, including, but not limited to, streets, sidewalks, and utilities.

1.25 “Lender” means the holder of a first mortgage or deed of trust given by a Member (or his/her predecessor in interest), the lien of which mortgage or deed of trust is superior to all other monetary encumbrances, except real property taxes and assessments.

1.26 “Maintenance Responsibility Chart” means the list of maintenance, repair, and replacement responsibilities attached as Exhibit “A.”

1.27 “Manager” means any person or company employed or retained by the Association to oversee the operation, maintenance, and management of the Association.

1.28 “Member” means the Owner, whether one or more Persons, of a Condominium within the Development as evidenced by a publicly-recorded deed to the Condominium, but excluding any Person or Persons having such an interest in the Condominium merely as security for the performance of an obligation. Membership is appurtenant to and may not be separated from the record fee ownership of a Condominium and may not be transferred, encumbered, pledged, alienated, or otherwise separated in any way, except in connection with the record sale of a fee interest of the Condominium to which it is appurtenant. Where the CC&Rs impose restrictions on Member, the restriction also applies to Member’s Tenants, and Member’s and Tenant’s family, guests and invitees.

1.29 “Membership Approval” or “Approval of the Membership” means approved or ratified by an affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented, which affirmative votes also constitute a majority of the required Quorum unless otherwise provided in the Governing Documents.

1.30 “Mortgage” means a deed of trust.

1.31 “Mortgagee” means a beneficiary (or its assignee) under a deed of trust to a Condominium, and the term “First Mortgagee” refers to a beneficiary (or its assignee) under a deed of trust to a Condominium with priority over all other Mortgagees and deeds of trust.

1.32 “Officer” means the president, vice-president, secretary, treasurer, and any other officer of the Association, as defined in the Bylaws.

1.33 “Operating Accounts” means any account into which the Association’s Assessments are deposited and out of which the Association’s operational expenses are paid.

1.34 “Owner” means the owner, whether one or more Persons, of the publicly-recorded fee title to any Condominium within the Development, but excluding any Person or Persons having such an interest in the Condominium merely as security for the performance of an obligation.

1.35 “Parking Space Lease” means that certain Agreement and Grant of Easement recorded on December 18, 1985, as Document No. 1985-068072, in the official records of the Office of the County Recorder of Santa Barbara County, as amended from time to time.

1.36 “Parking Areas” includes those portions of the Development used for parking vehicles.

1.37 “Patio” refers to a patio attached to a Unit and accessible through the Unit.

1.38 “Percentage Interest” means that undivided percentage ownership of the Common Area assigned to each Unit.

1.39 “Person” means a natural person, corporation, partnership, trust, association, or other entity, as recognized by law.

1.40 “Quorum” is defined in the Association’s Bylaws.

1.41 “Regular Assessments” means assessments other than Special Assessments and Reimbursement Assessments, levied or imposed against Members to perform the Association’s obligations under the Governing Documents or the law.

1.42 “Reimbursement Special Assessments” or “Reimbursement Assessments” means those Special Assessments levied against Members for expenses incurred by the Association arising out of: (i) actions or omissions of Members, Tenants or their respective family, guests, invitees, vendors, or pets; (ii) materials or services provided to Members, Tenants or their respective family, guests, invitees, or pets; or (iii) conditions originating in a Unit.

1.43 “Renovation” means any improvements, additions, alterations, or modifications made by a Member in or to any Unit, Common Area, or Exclusive Use Common Area.

1.44 “Reserves” or “Reserve Accounts” means those monies set aside in a separate account for anticipated long-term maintenance, repair, replacement and restoration of major Common Area components of the Development or Improvements upon the Common Areas, and any other obligations of the Association that is authorized by either the Governing Documents or law.

1.45 “Residence” means a person’s home, the place where someone lives.

1.46 “Resident” means any Person in actual possession of all or any portion of a Unit.

1.47 “Rules and Regulations” or “Rules” means the rules and regulations adopted by the Board to interpret and implement the Governing Documents and for the orderly conduct of the business of the Association.

1.48 “Separate Interest” means an individual Unit.

1.49 “Special Assessments” means assessments levied from time to time against Members if at any time during the fiscal year the Regular Assessments are inadequate to perform the Association’s obligations under the Governing Documents or the law, including, but not limited to, Common Area maintenance, repairs, replacements, unexpected expenses, capital improvements, and emergency repairs.

1.50 “Tenant” or “Lessee” means a Person who has been given the right to temporary use and occupancy of a Unit owned by a Member, whether such right to occupy and use is granted by a lease, rental agreement, license, or any other writing and whether consideration is paid in the form of money or any other tangible or intangible thing of value.

1.51 “Unit” means those elements of a Condominium which are not owned in common with the Owners of other Condominiums in the Development and as described by in the Condominium Plan and includes easements over the Common Area for the Patios, Balconies and Heating Areas as shown and defined in the Condominium Plan.

a. *Boundaries.*

- i. The lower vertical boundary of each airspace is the surface of the finished floor.
- ii. The upper vertical boundary of each airspace is the horizontal plane, which coincides with the elevation of the highest interior finished ceiling surface therein, or the inclined plane that coincides with the interior finished ceiling surface within each unit as shown on the Condominium Plan.
- iii. The lateral boundaries are the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors.
- iv. When interpreting deeds and plans, the existing physical boundaries of a Unit, or a Unit reconstructed in substantial accordance with the Condominium Plan, are conclusively presumed to be its boundaries, rather than the metes and bounds, or other description, expressed in the deed or Condominium Plan, regardless of settling or lateral movement of a building and regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of a building.

- b. *Inclusions.* The following are part of each individual Unit: (i) the airspace and all improvements to and within the airspace encompassed by the finished interior surfaces of the perimeter walls, floors, ceilings, windows and doors, including, but not limited to, paint, wall coverings, carpet and padding, hard-

surfaced flooring, cabinets and counters, electrical fixtures, plumbing fixtures, and interior walls, (ii) the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows and doors themselves, and (iii) electrical switches and outlets located within the Unit.

- c. *Exclusions.* The following are not part of an individual Unit and are deemed to be part of the Common Area: bearing walls, columns, horizontal supports, vertical supports, floors, ceilings, foundations, patio walls, steps and railing, exterior lighting fixtures, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except for the outlets thereof when located within the Unit.

1.52 “Utility Lines” means sewer lines, storm drains, water pipes, electricity lines, gas lines, telephone lines or cables, television cables, satellite dish cables, heating, conduits, ducts, flues, fiber optic cables, data lines, and other similar lines, pipes, cables, ducts, flues, and conduit pipes.

1.53 “Voting Power” means the total number of Units entitled to vote.

1.54 Definitions of other Terms. Unless the context clearly requires otherwise, all other terms are defined in the Davis-Stirling Act.

## **ARTICLE 2: MEMBERSHIP RIGHTS AND PRIVILEGES**

2.1 Membership. Each Person is automatically a Member of the Association upon obtaining a publicly-recorded fee title ownership interest in a Unit and remains a Member until he or she ceases to have such recorded fee ownership interest in a Unit.

- a. *Membership Appurtenant to Condominiums.* Membership in the Association is for the benefit of and appurtenant to the Condominium to which it relates and may not be separated from the ownership of the Condominium.
- b. *No Membership for Security Interests.* Membership does not include Persons who hold an interest in a Condominium merely as security for the performance of an obligation.
- c. *No Membership for Tenants.* Tenants have the same rights to use the Common Areas as Members and have the same duties to follow the Association’s Governing Documents but are not Members and have no right to vote.
- d. *No Separate Transfer of Membership.* No Member may transfer, pledge, or alienate in any way his/her membership in the Association, except upon the recorded transfer of the fee interest in the Condominium to which it is appurtenant and then only to the transferee of such fee interest.

- e. *Trusts*. If title to a Separate Interest is held in the name of one or more trustees, subject to a trust, a sole trustee or one of several trustees is authorized to exercise the rights and privileges of Association membership. The designation of one of several trustees must be in writing with documentation confirming both the designation and the authority of the designator to do so.
- f. *Impersonal Entities*. If title to a Separate Interest is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person who is authorized to exercise the rights and privileges of Association membership. The designation by the impersonal legal entity must be in writing with documentation confirming both the designation and its authority to do so.

2.2 Proof of Ownership. Proof of membership must be in the form of a recorded deed showing fee ownership of a Condominium.

2.3 Voting Rights. In all matters submitted for a membership vote, Members are entitled to one (1) vote per Condominium (regardless of the number of Members having an interest in the Condominium).

2.4 Inspection of Records. Members have the right to inspect records of the Association as provided for in the Bylaws and by law.

2.5 Ingress, Egress and Support. Members have a nonexclusive easement appurtenant to and for the benefit of their Units for ingress, egress, and support over, across and through the Common Area and every portion of any Unit required for the structural support of the Unit.

2.6 Easement for Use and Enjoyment. Members have a nonexclusive easement of use and enjoyment of the Common Areas, subject to the rights of the Association as described in the Governing Documents and the Association's right to reasonably limit the number of guests of Members.

2.7 Encroachment Easement. Members agree that minor encroachments of the Common Area on Units or of Units on the Common Area or other Units are permitted, and that valid easements for the encroachments exist. Such minor encroachments are not encumbrances on either the Units or the Common Area.

### **ARTICLE 3: MEMBERSHIP OBLIGATIONS**

3.1 Obligation to Follow Governing Documents. Members, Tenants and Residents must follow the Association's Governing Documents and ensure their respective family, guests, and invitees abide by the Governing Documents.

3.2 Security. Neither the Association nor any Officer, Director, Committee member, employee or agent of the Association are insurers or guarantors of any level of security within the Development. Members are responsible for their security and must take appropriate measures to ensure their security and the security of their family, guests, invitees and Tenants. Members agree not to rely on any security measures provided by the Association. The Association, its Officers, Directors, Committee members, employees and agents are not liable for any loss or damage from failure to provide adequate or effective security measures.

3.3 Purchase Subject to Violations. Buyers take ownership of Units subject to any violations by prior Members, Tenants or their respective family, guests, invitees, or pets, of the Governing Documents concerning the Unit, whether the seller of the Unit disclosed such violations and whether the Association knew of the violations at the time of sale. Such buyers are liable for correcting such violations upon demand by the Association. Assessments, fines, and other charges not secured by a lien on the Unit before the transfer of title are exempt from this provision.

3.4 Obligation to Provide Telephone Number. Members and Tenants must provide the Association with a current telephone number to be reached in an emergency.

3.5 Notice of Transfer of Ownership. No later than five (5) days after the assignment, sale, quitclaim or other transfer of their Units, Members must notify the Association of the name, address, phone number, and email address of the transferee and the nature of the transfer.

3.6 Duty to Maintain, Repair, and Replace. A Maintenance Responsibility Chart is attached as Exhibit "A" to these CC&Rs. Except for those duties specifically assigned to the Association by these CC&Rs, Members must, at their sole expense, maintain, repair, and replace improvements to their Units, as well as Exclusive Use Common Areas servicing their Units. Members' obligations include, without limitation, the following:

- a. *Interior Walls and Partitions*. The walls and partitions inside Members' Units, excluding the perimeter walls and any internal load-bearing walls.
- b. *Wall, Ceiling and Floor Coverings*. All drywall and insulation in and around the Unit, all interior surfaces of walls (including perimeter and load-bearing walls), ceilings, floors, windows and doors, all plaster, paint, wallpaper, paneling, fabrics, mirrors, carpets, rugs, linoleum, hardwoods, marble, granite, tile, window coverings, and any other materials used to Decorate the interior surfaces of the Unit.
- c. *Windows*. With respect to windows and window frames bounding a Member's Unit:
  - i. *Cleaning*. Members must keep the interior and exterior of their windows clean.



- ii. **Glass.** Members must maintain, repair and replace window glass with the color, quality and style specified by the Association, or if unspecified, with the same as that being replaced.
- iii. **Frames and Screens.** Members must maintain, repair and replace window frames, window screens, and all parts and hardware, using the material, color, quality and style specified by the Association, or if unspecified, with the same as that being replaced.
- iv. **Waterproofing, Sealing and Leaks.** Members are responsible for maintaining, repairing and replacing all weather stripping and waterproofing on the windows, including (1) the seal between the glass and the frame, (2) the seal between the frame and the building structure. Members must repair all leaks through the windows, whether due to broken glass, failed seals, damaged frames, worn-out weather stripping or otherwise.
- d. ***Doors.*** The doors, screen doors, frames, thresholds, weather stripping, locks, and related hardware.
- e. ***Cabinets, Countertops and Appliances.*** All cabinets, counter tops, and appliances, including refrigerators, stoves, ovens, dishwashers, garbage disposals, microwaves, washers and dryers, and the like.
- f. ***Heating and Heating Areas.*** The Heating Area and all mechanical heating equipment, heat exchangers, drip pans, valves, thermostats, compressors, control equipment, and any other mechanical equipment exclusively servicing the Unit.
- g. ***Electrical, Communications, and Cable.*** All telephones, telephone lines, internet and data lines, electrical wiring, light fixtures, electrical outlets, circuit breakers, switches, cable and other lines exclusively servicing a single Unit.
- h. ***Plumbing and Gas.*** All plumbing equipment, including plumbing fixtures, toilets, faucets, bathtubs, tub and shower valves, shower pans, drain lines, sewer lines, water lines, angle stops, garbage disposals, water heaters, etc., which exclusively service the Unit. All gas lines exclusively servicing the Unit.
- i. ***Washers and Dryers.*** All plumbing, ducts, Utility Lines and exterior laundry enclosures that exclusively service a Unit's washing machine and dryers, including but not limited to the water supply lines, vents, and exhaust fans.
- j. ***Utility Lines.*** All Utility Lines that exclusively service the Unit.

- k. *Balconies and Patios.* The Balconies and Patios, as provided for in the Article in these CC&Rs entitled “Balconies and Patios.”
- l. *Fireplaces.* Fireplaces elements located inside the Unit, including fireplace mantles, fireboxes, flues and chimneys, are the Unit Owner’s responsibility to maintain, repair, and replace. The chimney exterior, the chimney cap, and the chase cover are the Association’s responsibility to maintain, repair, and replace. From time to time, the Association may inspect fireboxes in Units. If it is determined that a Member’s firebox needs repair or replacement, the Member must immediately cease using the firebox and have it repaired or replaced at the Unit Owner’s expense or eliminated (and walled over), so it cannot be used.
- m. *Storage Areas.* The storage area that serves a single Unit, if any.
- n. *Improvements.* All improvements or alterations to a Unit or its Exclusive Use Common Areas by any party other than the Association.
- o. *Skylights.* Members must maintain, repair, and replace skylights that benefit their Units.

3.7 Easement for Maintenance. Each Member has easements across Units and Common Areas as necessary for installing, maintaining, repairing, or replacing Utility Lines that cannot reasonably be serviced from their Units. Access to Units and Common Areas is limited to a reasonable work area and for a reasonable time. Except in emergencies, reasonable notice and consent to perform such work, which may not be unreasonably withheld, must be obtained from the affected Unit Owner or the Association, as applicable. Immediately after the work is completed, Members must restore affected Units or the Common Areas to the same or better condition than before the commencement of such work. Such restoration work on affected Units and Common Areas must be done promptly at the sole expense of the Member performing the installation, repair, or maintenance work.

3.8 Water Damage and Mold.

- a. Each Member is responsible for the maintenance, repair and replacement of items within the interior of his or her Unit and Exclusive Use Common Area, including, but not limited to, cabinets, fixtures, appliances, flooring, and personal property, any property may be damaged from water that may leak or flow into the Unit or Exclusive Use Common Area from within the Unit, the Building, or the Common Area, unless a court, arbitrator or other tribunal determines that was caused by the gross negligence or intentional misconduct of the Association, its Board, Officers, or designated agents.
- b. Each Member, and not the Association, is liable for water damage and mold in and to Units, Common Areas, and Exclusive Use Common Areas, and any

personal property: (i) negligently caused by the Member, Member's Tenant or their respective family, guests, or invitees, vendors, or (ii) caused by Member's negligent failure to mitigate damage from failing to regularly inspect and promptly report signs of water intrusion and leaks, including, but not limited, to roof, door, window and slab leaks.

- c. Each Member must regularly inspect their Unit for plumbing leaks, water accumulation, water intrusion through windows, doors, slabs and roofs, and signs of mold, and must promptly report such conditions to the Association. Members must periodically service and replace angle stops, supply lines, and drain lines to appliances, heating equipment, sinks, toilets, and the like in their Units.
- d. The Association and all Members must repair, restore or replace any water or mold damaged portions of the Development as required by these CC&Rs. Each Member is financially liable for all damage to the Common Area or other Units due to the Member's failure to promptly perform such work. The Association reserves the right to enter any Unit and Exclusive Use Common Area, as permitted by these CC&Rs, to repair, restore, remediate or replace any portion of a Unit and Exclusive Use Common Area to protect any Building and Common Area from any damage from water and mold. The Association may impose a Reimbursement Special Assessment against any liable Member for all costs incurred by the Association for such repairs, restoration, remediation or replacement. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924b, and 2924c.

3.9 Obligation to Carry Insurance. Members must purchase insurance for their Separate Interests, at their sole expense, as more fully described in the Article in these CC&Rs entitled "Insurance." The Association may confirm compliance with this section by any Member but is not required to and is specifically relieved of any responsibility or liability for not confirming compliance with this section.

3.10 Liability for Damage.

- a. Members are liable for all damage to the Units, Common Areas, including Exclusive Use Common Areas, and any personal property negligently caused by the Member, Member's Tenant, Residents, occupants, or their respective family, guests, invitees, vendors, or pets.
- b. The Association and all Members must repair, restore, remediate or replace any damaged portion of the Development as required by these CC&Rs. However, the Association may impose a Reimbursement Special Assessment against any liable Member for all costs incurred by the Association for repairs, restoration,

remediation or replacement. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924b, and 2924c.

3.11 Correction of Violations. After notice, hearing and a finding by the Association of a violation of the Governing Documents, the Association will have the right, but not the duty, to correct or cause to be corrected the violation, including entering a Unit with the permission of a Member owning the Unit, which permission will not be unreasonably withheld. All expenses incurred by the Association to correct the violation will be recovered from the Members owning the Unit as a Reimbursement Assessment following notice and a hearing. If permission for entry into the Unit is not granted, the Association may enforce the violation by any other means allowed by the Governing Documents or the law.

3.12 Reimbursement to Association. If the Association provides materials or services that benefit a particular Member, such Member must reimburse the Association for the Association's costs. If not, the Association may impose a Reimbursement Special Assessment against the Member in the amount of such costs.

3.13 Liability for Mitigation. Members are liable for expenses incurred by the Association in mitigating or repairing damage to Units, Common Areas, and Improvements due to damage: (i) originating from Member's Unit, including, but not limited to, flood, fire, mold, insect, or rodent infestation; or (ii) from the negligence or willful misconduct of such Member, Member's Tenant, or their respective family, guests, or pets. If not repaid, the Association may impose Reimbursement Special Assessments against liable Members.

3.14 Guests. Each Member is liable to all other Members and the Association for the conduct, behavior, and violations of Persons visiting the Member or Member's Tenant in the Development.

#### **ARTICLE 4: DUTIES OF THE ASSOCIATION**

4.1 Board of Directors. The management, maintenance and care of the Common Areas, management of the Association, enforcement of the Governing Documents, and all other acts of the Association are performed by its Board of Directors unless provided otherwise in the Governing Documents.

- a. *Membership Meetings.* The Association must have at least one (1) meeting of its Members each year, as provided in the Bylaws. Annual and Special Meetings of the membership must be held at the dates, times, and locations provided for in the Bylaws.
- b. *Director Qualifications and Meetings.* The qualifications of Directors and candidates to be elected to the Board are provided for in the Bylaws. Meetings of the Board must be held as provided for in the Bylaws and as required by law.

4.2 Powers of a Nonprofit Corporation. The Association has all of the powers of a nonprofit mutual-benefit corporation organized under the laws of the State of California, operating for the benefit of its Members.

4.3 Maintain Common Areas. Unless otherwise provided in these CC&Rs, including the Maintenance Responsibility Chart, the Association must maintain, repair, and replace the Common Areas including, but not limited to the swimming pool, spa, sauna, pool house, meeting room, exercise room, private streets and street lighting, public area, sidewalks, entry gates, bridge, mail kiosks, trash enclosures, access control systems, all open space and the following:

- a. *Slopes*. The Association must stabilize, maintain, repair, and replace all slopes and drainage contours throughout the Development.
- b. *Walls and Fences*. The Association must maintain, repair, and replace all Common Area fences and walls, including the perimeter walls.
- c. *Parking Areas*. The Association must maintain, repair, and replace all driveways, parking areas, carports and car wash areas.
- d. *Landscaping*. The Association must maintain, repair, and replace all landscaping except for any landscaping or vegetation within a Unit Patio.
- e. *Structures and Exteriors*. The Association must maintain, repair, and replace all foundation, structural components, exterior surfaces, roofs, common Utility Lines, gutters, downspouts and other exterior components.

4.4 Termites and Pests.

- a. *Association Rights and Obligations*. The Association may exercise any rights and authority provided for in the Davis-Stirling Act. In addition, the Association has the authority and duty to do the following:
  - i. Treat, repair and replace, at its own cost, Common Areas, and any other areas which the Association must maintain, repair or replace, infested or damaged by insects, rodents, and wood-destroying pests or organisms (including microorganisms);
  - ii. Treat, by fumigation by tenting only, Units infested by wood-destroying pests or organisms (including microorganisms);
  - iii. Treat Units infested by insects (such as ants, cockroaches, silverfish, etc., other than wood-destroying pests) and rodents.

- iv. Impose a Special Assessment against the membership for the cost of the treatment and repairs; and
  - v. Summarily remove Residents, at Residents' expense, to ensure prompt treatment and repairs in the manner provided for in the Davis-Stirling Act.
- b. *Member Obligations.* Each Member is obligated to do the following with respect to the Member's Unit:
- i. Treat, except for fumigation by tenting, at Member's expense, the portions of Member's Unit infested or damaged by wood-destroying pests or organisms (including microorganisms);
  - ii. Treat Units infested by insects (such as ants, cockroaches, silverfish, etc., other than wood-destroying pests) and rodents.
  - iii. At the Member's expense, repair and replace any damage to Member's Unit caused by the presence of wood-destroying pests or organisms (including microorganisms), other insects, and rodents.
  - iv. Comply with all legal requirements necessary to effect any fumigation by tenting requested by any fumigator, including executing any paperwork mandated by law.

4.5 Incur and Pay Expenses. The Association is empowered to incur and pay the operational expenses of the Association, which include, but are not limited to, legal and accounting services; utilities; insurance; management services; vendor services, such as security, landscaping, garbage collection, pest control, street sweeping, swimming pool maintenance, saunas, cleaning, painting, and other such services; maintenance, repair, reconstruction, and replacement of all or any portion of the Common Areas or the personal property acquired by the Association; supplies and materials; and such other services for the use, enjoyment and protection of the Development and its Residents and occupants as the Board may determine from time to time are reasonable, proper, or desirable.

4.6 Rules and Regulations. The Board may adopt, amend, and repeal Rules and Regulations regarding any matter outlined in the Governing Documents, including, but not limited to: (i) the use, occupancy, and maintenance of the Development; (ii) the general health, welfare, peace, comfort, safety and security of Residents in the Development; and (iii) the interpretation and implementation of the Governing Documents.

4.7 Foreclose, Hold Title and Make Conveyances. The Association is authorized to lien and foreclose upon any Unit for non-payment of Assessments, take title to the Unit, assume or otherwise pay off encumbrances, and acquire, hold title to, lease, and convey with or without consideration, real and personal property and interests.

4.8 Fee Limitation. The Association may not impose fees exceeding the amount necessary to defray the fees for which the fee is levied.

4.9 Commercial Concessions. The Board may negotiate contracts and grant commercial concessions over portions of the Common Area, subject to Membership Approval.

4.10 Utility and Cable Easements. The Association is hereby granted easements to enter into Units as is necessary or prudent to (i) install, maintain, repair, and replace Common Area Utility Lines; and (ii) install, operate, maintain, repair, and replace transmission lines and other facilities for high-speed internet lines or other similar systems; provided that any damage to a Member's Unit caused by such work must be repaired to original construction building standards at the Association's expense and in a timely fashion.

4.11 Granting Utility Easements. The Board is authorized to grant easements and rights of way in, under, or through the Common Areas for constructing, erecting, operating, maintaining, repairing, and replacing utilities and similar services.

4.12 Limitation on Granting Easements. Granting any Member an easement for the exclusive use of any portion of the Common Areas requires Approval of the Membership except if the easement is for any of the reasons stated in the Davis-Stirling Act.

4.13 Parking Space Lease. The Association shall comply with the terms of the Parking Space Lease and may enter into extensions, amendments or supplements to the Parking Space Lease.

4.14 Borrow Money. The Association may borrow and repay monies, as needed to discharge its duties, and pledge or assign Special Assessment rights as security for repayment of such borrowed money. Except for emergencies, the aggregate total of all loans made by the Association in a given fiscal year may not exceed five percent (5%) of the budgeted gross expenses for the same fiscal year without Membership Approval.

4.15 No Power to Encumber Real Property. The Common Area of the Association may not be encumbered as security for a debt.

4.16 Represent Association in Litigation. The Association, by its Board, may institute, defend, settle, or intervene in litigation, arbitration, mediation, administrative proceedings, or any other legal proceeding in any capacity necessary to represent the interests of the Association.

4.17 Receive and Dispose of Property. Subject to the Section of these CC&Rs entitled "Limitation on Transfer of Real Property," the Association may acquire, hold, lease, encumber, convey, or otherwise dispose of real and personal property and to take real and personal property by will, gift, bequest or any other legal transfer. Any funds or property received must be used consistently with the Association's purposes.

4.18 Limitations on Disposition of Personal Property. Without Membership Approval, the Board may not dispose of during any fiscal year personal property owned by the Association having an aggregate market value above five percent (5%) of the Association's budgeted gross expenses for that year.

4.19 Limitations on Transfer of Real Property.

- a. The Board may exchange, sell, dedicate, or otherwise transfer real property owned by the Association, but not any portion of the Common Area, only on the following conditions:
  - i. Approval by a majority of the Voting Power of the Association must first be obtained, except for the sale or other transfer of property acquired by the Association in foreclosure proceedings.
  - ii. For any exchange of real property, the property received by the Association must be of equal or greater value than the property given.
  - iii. Any dedication of property must only be to a public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.
  - iv. If the exchange, sale, dedication or other transfer of real property requires an amendment to the governing documents, any approval of such exchange, sale, dedication or other transfer by the Board must be conditioned upon approval of such amendment.
- b. The Common Area of the Development, or any portion thereof, is not subject to partition or sale except as provided in Civil Code §§4610 and 4630 and related case law.

4.20 Capital Improvements. The following applies to Common Area Capital Improvements:

- c. *Authority.* The Board may alter, remove or replace Common Area improvements as needed to carry out their duties.
- d. *Defined.* "Capital Improvement" means any substantial discretionary addition to the Common Areas or significant alterations to the appearance of the Development. A Capital Improvement is not defined to mean additions or upgrades to Common Area materials that are necessary or prudent to comply with building or safety codes, or to prevent property damage or personal injury, or to reduce operating or maintenance costs for the Common Areas or to comply with Reserve component repairs or replacements.



- e. *5% Limitation.* Capital Improvements may not be made to the Common Areas in any fiscal year above five percent (5%) of the Association's budgeted gross expenses for that year without Membership Approval.
- f. *Obsolescence.* If the Board determines that any Common Area Improvement is obsolete or no longer brings sufficient value to the Association to justify its upkeep, and the cost to remove the amenity is more than 5% of the budgeted gross expenses for that fiscal year, the Board must obtain Membership Approval to remove the amenity.

4.21 Vendor Contract Limitations. The Association is prohibited from entering into any contract for services which binds the Association for a period for multiple (1) year, without Membership Approval, except that the Association may enter into a contract with any public utility company if the Public Utilities Commission regulates the rates charged for the materials or services. However, the contract term with a public utility company must be for the shortest term the supplier contracts at the regular price.

4.22 Management Contract Limitations. Any agreement for professional management of the development shall be terminable by either party with or without cause and without payment of a termination fee on not more than thirty (30) days' prior written notice. The term of any such agreement shall not exceed one (1) year but may be renewed by the Board from year to year.

4.23 Delegation to Manager. The Board may delegate any of its duties, powers, or functions to any qualified Person or management company to act as Manager, except (i) attending Board meetings and voting on motions; (ii) electing officers; (iii) filling vacancies on the Board; (iv) appointment of executive committees; and (v) approving settlement agreements. Notwithstanding any delegation of duties, however, the Manager's actions are subject to the direction and supervision of the Board.

4.24 Nonprofit Character of Association. Notwithstanding anything contained in these CC&Rs to the contrary, the Association may not engage in any activity which may jeopardize the nonprofit character of the Association.

4.25 Discharge of Liens. When necessary, the Association is empowered to discharge, by payment, any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of the lien. Before any Board decision to discharge a lien, the Members responsible for the lien's existence must be given written notice and an opportunity to be heard by the Board and present any defenses that may exist.

## **ARTICLE 5: ARCHITECTURAL CONTROL**

5.1 No Improvements or Alterations Without Approval. No Renovations by or on behalf of a Member in or to any Unit, Common Area, or Exclusive Use Common Area are

permitted until plans and specifications have been submitted to and approved in writing by the Architectural Committee or Board. Any Renovations which are unapproved, different from those approved by the Committee, or done without required governmental permits, are automatically deemed disapproved, and the Member must promptly remove or correct the disapproved Renovations to comply with the Architectural Standards, the Architectural Committee's or Board's approvals, and governmental requirements.

5.2 Applicants in Good Standing. Only Members in Good Standing may submit requests for architectural approval of Renovations to their Units, Exclusive Use Common Areas, or Common Areas appurtenant to their Units. A Member is in Good Standing for any Governing Documents unless found by the Board, at a properly noticed hearing, (1) to be delinquent in the payment of any Assessment, fee, or fine, by more than sixty (60) days, or (2) to be otherwise in violation of the Association's Governing Documents.

5.3 Right to Decorate Unit. Members may Decorate the interior surfaces of the walls, partitions, ceilings, floors, and doors within their Unit, subject to any restrictions or procedures found in these CC&Rs and any Rules established by the Association.

5.4 No Exterior Installations. Installations of any kind, including but not limited to trellises, awnings, electric lines, telephone lines, television antennas, satellite dishes (except as permitted by law), machines, filtration systems, and air conditioning units, on the exterior of the Unit or that protrude through the walls, or the roof, or that are located within the Common Area are prohibited except as authorized by the Architectural Committee.

5.5 Architectural Standards. The Board is authorized to adopt, amend, and repeal Architectural Standards. These Architectural Standards interpret and implement the provisions of these CC&Rs by setting forth the standards and procedures for the review and approval of proposed Renovations, guidelines or requirements for architectural design, placement of any Renovation, color schemes, exterior finishes and materials, and similar features which are recommended or required for use within the Development, provided that the Architectural Standards meet any minimum standards required by these CC&Rs. If any conflict exists between the Architectural Standards and these CC&Rs, the CC&Rs prevail.

5.6 Architectural Committee. The Board is authorized to appoint an Architectural Committee. If the Board does not appoint one, the Board is automatically deemed the Architectural Committee. The Architectural Committee has the authority to approve, reject, modify, give conditional approvals, and give limited approvals of improvements and alterations as provided for in the Association's Architectural Standards.

- a. *Architect.* The Board is authorized to retain the services of an architect and one or more consultants to assist the Architectural Committee in its duties. The Board must determine compensation for consultants' services. The cost of such consultants and any related expenses may be charged to those Members submitting plans for Renovations as a Reimbursement Special Assessment. Any

significant costs for which the Member will be responsible must be submitted to the Member for approval before being incurred by the Association.

- b. *Conflicts of Interest.* A Director or Architectural Committee member is not permitted to participate in the decision-making process of any architectural submittal made by that Director or Architectural Committee member or members of his or her family. Further, a Director or Architectural Committee member is not permitted to participate in the decision-making process of any other architectural submittal if the approval would result in a monetary benefit to the Director or Architectural Committee member or any company in which the Director or Architectural Committee member, or members of his or her family have a financial interest.

#### 5.7 Submission of Plans and Approval Process.

- a. Plans and specifications under the Association's Governing Documents, describing the proposed Renovations, must be submitted to the Board, Manager or Architectural Committee by personal delivery, certified mail or any other method authorized by law.
- b. Applications are deemed approved within forty-five (45) days from the date of submission of a complete application unless (i) disapproved by the Committee, (ii) additional information necessary to properly consider the Committee requests the application within the forty-five (45) day period, or (iii) any proposed Renovations would violate the Association's Governing Documents, any Building, Safety and Fire Codes, or any other laws.
- c. Applications shall not be approved by any individual Architectural Committee member or Director. If an individual Architectural Committee member or Director approves architectural plans and specifications, such approval should not be relied upon and shall not be deemed approved.
- d. The Architectural Committee is authorized to impose any reasonable conditions of approving an architectural application, in writing, including, but not limited to, (1) requiring modifications of particular aspects of the Member's architectural submission or (2) requiring the preparation, execution and recording, at the Member's expense, of a covenant establishing maintenance, repair and replacement, indemnity, and other obligations binding current and future Members owning the Unit.
- e. Applications that are disapproved must be in writing and explain why the proposed Renovation is disapproved. The Member may seek reconsideration of a disapproved application, in writing, by the Board, unless (1) the original disapproval was made by the Board or a body that has the same membership as

the Board at a meeting that satisfied the requirements of the Open Meeting Act or (2) as to any Renovations that were disallowed because they would violate the Association's Governing Documents, any Building, Safety and Fire Codes, or any other laws. A permissible written request for reconsideration must be received by the Board not more than forty-five (45) days after the denial. Within forty-five (45) days after receipt of the request for reconsideration, the Board must hold an open meeting to consider the reconsideration and decide. Failure of the Board to decide within the forty-five (45) day period is deemed a decision in favor of the Member.

- f. Once an application has been approved, material modifications to the approved plans and specifications thereof are not permitted, and any subsequent alterations, relocations, additions or modifications require a separate application, review and approval. If a proposed material modification is likely to materially affect other aspects or components of the work, the Board, in its discretion, may order the Member and his or her contractors and agents to cease working on both the modified component of the Improvement and any other affected component.
- g. Unless a shorter period is specified in the approval, Renovations approved by the Architectural Committee must be completed within one (1) year of the Member receiving approval. Renovations not completed within one (1) year must be resubmitted for approval. The Architectural Committee, in its discretion, may grant short extensions for Renovations to be completed.

5.8 Rescinding Approval. The Architectural Committee or the Board is authorized to rescind previously approved plans, but only for good cause, including, but not limited to, mistake or fraud.

5.9 Failure to Comply with Approval Requirements. Any Renovations, whether in progress or completed, which (1) were not approved by the Architectural Committee or Board when the Governing Documents require such approval, (2) violate the Architectural Committee's or Board's conditions of approval, the Association's Governing Documents, or any Building, Safety and Fire Codes, or other laws, or (3) were performed by an unlicensed contractor (where a licensed contractor was required by law, the Governing Documents, or the Architectural Committee's conditions of approval), are automatically deemed disapproved and in violation of the Governing Documents.

5.10 Unauthorized Modifications. Unauthorized modifications are subject to removal at the owner's expense if such modifications are unapproved, unpermitted, incorrectly installed, or represent a health, safety or persistent nuisance to Residents.

5.11 Review Fees and Remodeling Agreement. The Board is authorized to establish a schedule of fees to be charged to an applicant to reimburse the Association for any out-of-pocket

expenses is may incur in connection with the approval of an application, including architectural and engineering consultant fees, attorneys' fees for the preparation of recordable covenants or easements, or other documents uniquely necessary for compliance with reasonable conditions of approval, and expert expenses for reviewing plans. In addition, the Board is authorized to adopt and require Members to sign a remodeling agreement.

5.12 Variances. The Architectural Committee may recommend reasonable architectural variances, subject to advanced written Board approval. The Board may grant the variance if it determines the variance will not (i) constitute a material deviation from the overall plan and scheme of the Development, (ii) result in a material detriment to the Association or any Member, or (iii) create a nuisance in the Common Area or affecting any other Member. The granting of a variance by the Board is not deemed a variance or waiver as to any other Unit, nor does any variance granted affect the applicability or enforceability of any provision of this Article to any other Unit.

5.13 Engineering and Code Requirements. Plans and specifications approved by the Architectural Committee or Board are not approved for engineering design, Building, Safety or Fire codes, or other safety specifications. Approval by the Architectural Committee or Board does not absolve Members of the responsibility of obtaining any necessary governmental approvals or permits. Members must comply with applicable Building, Safety and Fire codes, ordinances, and specifications.

5.14 Acoustical Limitations. Subject to stricter restrictions and prohibitions in this Section, all flooring installed in whole or in part over a dwelling area must meet or exceed either a Field Impact Insulation Class ("FIIC") rating of 55 or a High-Frequency Impact Rating ("NHIR") of 55.

a. *Hard-surfaced Flooring*.

- i. *Ceramic and Stone*. Installation of ceramic tile, travertine, and other stones and slates in whole or in part over a dwelling area is prohibited.
- ii. *Over Bedrooms*. Installation of any flooring, other than carpet, over a bedroom is prohibited.
- iii. *Hardwoods*. Installation of engineered and laminated hardwood flooring must be a floating (non-glued) product. All wood flooring must be at least 10 mm thick with resilient matting beneath it, such as *Ecore QTscu 4010*, *Pliteq RST10*, *InstaLay 12 mm*, or another product with equal or superior sound transmission protection.
- iv. *Luxury Vinyl*. Installation of luxury vinyl planks or tiles must be a floating (non-glued) product at least 5 mm thick with resilient matting beneath it,

such as *Sponge Cushion Silent Walk*, or another product with equal or superior sound transmission protection.

- v. *Perimeter Isolation.* All installations must follow the manufacturer's instructions. All installations must include perimeter isolation of at least 1/4 inch and no rigid contact between the floor and any wall, cabinet, baseboard, or other material.
  - vi. *Testing.* Following the completed installation of any flooring other than carpet, Members must hire an acoustic testing company, approved by the Association, to perform a sound test of the newly installed flooring to determine the FIIC or NHIR rating. The sound test must be performed directly on the actual completed and installed flooring, not over any additional floor coverings such as area rugs. If the floors fail to meet or exceed the required FIIC or NHIR rating of 55, the Member must bring the flooring into compliance or remove it and install carpeting as specified in the subpart of this Section entitled "Carpeting." The Association is permitted, but not required, to grant a waiver for minor deviations in these requirements.
  - vii. *Rules May Impose Stricter Requirements.* Nothing in this subpart entitled "Acoustical Limitations" will prohibit the Association from adopting stricter Rules and Regulations regarding the standards, ratings and requirements herein.
- b. *Carpeting.*
- i. *Noise Transmission Standard.* Whenever floors are carpeted or re-carpeted, they must meet or exceed an FIIC or NHIR rating of 60.
  - ii. *Carpet and Padding.* All carpet to be installed must weigh at least 50 oz./yd and be installed over resilient matting such as *Sponge Cushion Silent Walk* or another product with equal or superior sound transmission protection.
  - iii. *Testing.* A sound test is not required after installing carpet unless a Resident neighbor complains of unreasonable noise. If a Resident neighbor complains, the Association must retain a company of its choosing to perform a sound test. If the tested floor meets or exceeds an FIIC or NHIR rating of 60, the Association may seek to impose a Reimbursement Special Assessment for the cost of the test from the Member(s) owning the Unit in which the complaining Resident lives at a properly noticed hearing. If the tested floor fails to meet or exceed the required rating, the Association may seek to impose a Reimbursement

Special Assessment for the cost of the test from the Member(s) owning the Unit and such Member(s) must also bring the carpeting into compliance with the Association's standards. The Association is permitted, but not required, to grant a waiver for minor deviations in these requirements.

- iv. *Rules May Impose Stricter Requirements.* Nothing in this subpart entitled "Carpeting" will prohibit the Association from adopting stricter Rules and Regulations regarding the standards, ratings and requirements herein.

c. *Disclaimers.*

- i. *General Disclaimer.* Due to the way the Association's building(s) were constructed, their age, or other factors, it may not be possible for Members to achieve the required ratings for hard-surfaced flooring. The Association provides no representation or assurance that the required ratings are attainable by complying with the requirements on this Section or under any circumstances. Members who seek to install hard-surfaced flooring do so at their risk.
- ii. *Materials Disclaimer.* The materials requirements in this Section are minimum requirements. A Member's floor may need additional or better materials to achieve the required FIIC or NHIR ratings, if possible, and should consult with flooring experts before beginning the process.
- iii. *Nuisance Disclaimer.* While the purpose of this Section is to protect Members from unreasonable noise being transmitted through the flooring, compliance with this Section alone does not immunize a Member from any nuisance claims of unreasonably noisy flooring or otherwise. In addition to complying with the provisions of this Section, Members are advised that sound is easily transmitted through walls, floors and ceilings of multi-family dwellings, and Members should take reasonable actions to minimize such sounds.

- d. *Legacy Exception.* All floors approved by the Board and installed before the recordation of these CC&Rs are exempt from compliance with these acoustical limitations. However, floors must be brought into compliance whenever the flooring is replaced, the Unit is sold or otherwise transferred, or nuisance noise issues cannot be resolved by other means.

5.15 Inspection. The Association has the right, but not the obligation, to periodically inspect any work approved by the Architectural Committee or Board. Members must allow inspection. Any work in progress may be halted, and the Member will be subject to a fine if (1) an inspection is not allowed, or (2) the Renovations are in violation of the Governing Documents as provided in the Section above entitled "Failure to Comply with Approval Requirements" or

elsewhere. Such inspections do not absolve Members from compliance with the Association's Architectural Standards and all applicable Building, Safety and Fire codes.

5.16 Building Department and Association Approvals. Any construction, repair, modification, or alteration of any Improvement requiring the issuance of a building permit must be submitted by the Member to the appropriate governmental entity for review and approval. The Architectural Committee may impose conditions of approval that are more restrictive than conditions imposed by governmental agencies. If the conditions of approval imposed by the governmental entity and the Architectural Committee conflict, the more restrictive conditions control.

5.17 Mechanics' Liens. Members must ensure that no lien is placed against any other Unit, Condominium, or against the Common Areas for labor or material furnished to their Units. If a lien is placed against the Common Areas or another Member's Unit or Condominium, and the responsible Member does not immediately cause the removal of the lien, the Association may, after written notice to the responsible Member, pay the amounts necessary to have the lien removed and levy a Reimbursement Special Assessment against the responsible Member for the monies advanced and any fees and costs incurred by the Association.

5.18 Hold Harmless and Indemnify. Approval of plans by the Association signifies only general conformance with its Architectural Standards and not with Building, Safety, or Fire code compliance, lot lines, easements, or best construction practices. The Association and its Architectural Committee, Members, Officers, Directors, employees, and agents are not liable and must be held harmless, defended and indemnified for mistakes in judgment or negligence arising from or in connection with the Association's approval or disapproval of plans.

5.19 No Right to Combine Units. The combining of Units is not permitted.

5.20 No Right to Divide Units. Subject to the applicability of any law restricting the partitioning of Units and the Common Area, no Member may divide any Unit or change the number of bedrooms; provided, however, that once two (2) or more Units have been combined, the Members owning such combined Units may restore them to their original dimensions and footprint only after receiving prior written Board approval.

5.21 Waiver of Liability. Neither the Architectural Committee nor its members nor the Association or its Officers, Directors, employees or agents are liable for any damage, loss or prejudice suffered or claimed on account of the Architectural Committee's review, approval, or disapproval of any plans, drawings or specifications, or the conformance of the construction with the approved plans and any such claims are expressly waived.



## ARTICLE 6: BALCONIES AND PATIOS

6.1 Member Maintenance of Balconies and Patios. Members must maintain their Balconies and Patios at their sole expense as described below and as indicated on the Maintenance Responsibility Chart.

- a. *Clean and Sanitary.* Members must keep their Balconies and Patios in a clean and sanitary condition. However, any water used in cleaning Balconies must not unreasonably spill over the Balcony's edge onto other Units or the Common Area.
- b. *Balcony/Patio Doors.* Members must maintain, repair, and replace their Balcony and Patio doors, door casings, thresholds, flashing, weather stripping, waterproofing, caulking, door guides, and any other related hardware and sealants
- c. *Floors and Surfaces.* Members must maintain, repair, and replace surface finishes and waterproofing of the floors of their Balconies and Patios.

6.2 Association Maintenance of Balconies and Patios. Excluding Member obligations provided for in this Article, the Association must maintain, repair and replace exterior surfaces, railings, and structural components of Balconies. . Subject to the notice provisions in these CC&Rs under "Right of Entry," the Association has the right to enter upon any Balcony or Patio to conduct any maintenance, repair, or replacement for which the Association is responsible.

6.3 Right to Inspect and Repair. To ensure Member and Association obligations are met, the Association has the right to enter onto Balconies and Patios to inspect them. Failure by a Member to maintain a Balcony or Patio gives the Association the right to repair it per the notice and repair provisions of these CC&Rs. The Association may recover the costs of such repairs by imposing a Reimbursement Assessment and imposing a lien against the Unit, if not paid, as provided for in these CC&Rs.

6.4 Balcony and Patio Alterations. Members have no right to paint or alter their Balconies or Patios without the prior written approval of the Architectural Committee.

6.5 Balcony Ledge. No plants or hanging vines may extend over the edge of any Balcony, except as allowed in the Rules and Regulations. No item may be placed temporarily or permanently on any ledge, except as allowed in the Rules and Regulations. Members are not permitted to drape laundry, rugs, or other similar items over any Balcony or Patio wall or railing.

6.6 Dangerous Acts. Members and Residents are not permitted to throw or sweep any dirt, water, objects, or other substances from any Unit, its doors, windows, or Balconies.

6.7 Unightly Objects. No unsightly objects (including, but not limited to, laundry, mops, appliances, and bicycles) may be placed on a Balcony or Patio where they may be seen by other Members or by the public in general. Members must keep their Patios and Balconies clean, sanitary, and free of debris, trash, animal feces, and animal waste bags.

6.8 Balcony and Patio Furniture. Members may furnish their Balconies and Patios with outdoor furniture if allowed in the Rules and Regulations.

6.9 View Obstructions. No vegetation or other obstruction may be planted or maintained upon any Balcony or Patio that unreasonably obstructs any other Unit's view. Any item or vegetation which, in the opinion of the Board, creates an unreasonable view obstruction must be removed or pruned to the Board's satisfaction.

6.10 Watering Plants. Members must not water their plants or use water on their Balconies in such a way as to cause water to drip, spray, or flow onto the Balcony, Patio, or windows of another Unit.

6.11 Balcony Weight Limitations. Members are not permitted to place unreasonable weight loads on any Balcony. The Rules and Regulations may regulate the number and size of plants. No storage containers, cabinets, shelves, refrigerators, freezers, or other appliances are permitted on Balconies or Patios.

6.12 Damage. Members are liable for any damage to their Balconies or Patios caused by the acts, omissions, or willful misconduct of Members, their Residents, occupants, guests, or their family or pets. Any such damage which the Association repairs under these CC&Rs may be assessed against the Member as a Reimbursement Assessment.

6.13 Balcony and Patio Water Damage. Members are responsible for the cost of repairing any damage to (i) their property; (ii) the property of others; and (iii) the Common Areas, resulting from water intrusion from the Balconies or Patios appurtenant to their Units due to waterproofing failures for which the Member is responsible.

## **ARTICLE 7: GENERAL RESTRICTIONS**

7.1 Air Conditioning Units. The installation and use of air conditioning units is prohibited unless authorized by the Board or the Rules and Regulations.

7.2 Antennas. No antennas for transmitting or receiving radio signals or any other form of electromagnetic radiation may be installed, except as provided in the Association's Rules and Regulations, its Architectural Standards, and applicable law.

7.3 Barbecues. Owners shall comply with all applicable California and City of Goleta Fire Codes and laws when using a barbecue or any open-flame cooking device on a Patio or Balcony. Charcoal burners and other open-flame cooking devices shall not be operated on

combustible balconies or within 10 feet of combustible construction, except LP-gas cooking devices having LP-gas containers with a water capacity not greater than 2-1/2 pounds [nominal 1 pound (0.454 kg) LP-gas capacity]. Hours of operation, other permissible equipment, and other rules regarding barbecue operation may be stated in the Rules and Regulations. Residents and other occupants must take reasonable precautions to minimize smoke from entering other Units.

7.4 Drones. A “drone” is defined as a powered aerial vehicle that flies autonomously or is remotely piloted. The operation of drones in the Development, if allowed by the Association, must comply with the Association’s Rules and Regulations, federal and state law. No person may operate, cause, allow or authorize the operation of a drone in the airspace above any portion of the Development in such a way as to invade the privacy of Association Members, guests, Residents, occupants or vendors, whether equipped with a camera or otherwise. Prior written approval of the Board of Directors must be given for drone operations that are contrary to this Section or the Association’s Rules and must comply with such terms and conditions as the Board may deem appropriate under the circumstances.

7.5 Flammable Materials. Except for reasonable amounts of legal ammunition for use with legal firearms, the storage or use of explosives, fireworks, or highly flammable or highly corrosive materials by Members, Tenants, Residents, or their respective family, guests, or invitees anywhere in the Development is prohibited.

7.6 Health/Safety Hazards. Members must not permit conditions that constitute a health, safety, or fire hazard in their Units, Balconies, Patios, storage areas, Parking Areas, or Exclusive Use Common Areas.

7.7 Hiring of Association Employees. Members may hire off-duty Association employees to perform work. However, any use of off-duty employees is at the employing Member’s expense, and such Member is responsible for workers’ compensation and payroll deductions for that employee. The Association is not liable for the acts or omissions of employees hired by Members while in the course and scope of employment by the Member.

7.8 Laundry. No clothesline or drying rack may be erected, maintained or used in the exterior of the Development, except in an exclusive use backyard of a Member. The Association may adopt reasonable rules and restrictions regarding the use of clotheslines and drying racks as allowed by law. No item may be draped over fences, trees, Balconies, Patio walls, or railings.

7.9 Marijuana and Controlled Substances. Growing or distributing marijuana or medical marijuana, whether or not for personal use, as well as manufacturing, synthesizing, producing or distributing any illicit or controlled substances as defined by applicable state and federal laws is strictly prohibited in the Development, whether in Units, Exclusive Use Common Areas, or Common Areas.

7.10 Nudity. Public displays of nudity are prohibited.

7.11 Nuisance. Members are prohibited from causing or permitting any act or condition which constitutes a nuisance.

- a. *Unreasonableness*. To constitute a nuisance, the act or condition must be an unreasonable disturbance or annoyance, unreasonably injurious to health, indecent, or unreasonably detrimental to Persons or property.
- b. *Secondhand Smoke*. Any “exfiltration” (air flow outward through a wall, building envelope, window, etc.) of any noxious odor or smoke, including tobacco smoke, from a Unit, whether through windows, doors, vents, or other means, is prohibited. It is the responsibility of the Member causing such exfiltration of smoke or odors to prevent it.
- c. *Allergies*. Residents with allergies or sensitivities must, at their expense, take precautions to protect themselves against commonplace levels of noise, odors, dust, smoke, gases, pollen, or other environmental pollutants.
- d. *Board Determination*. Because a nuisance is largely subjective, the Association is not obligated to become involved in disputes where, in the opinion of the Board, the alleged disturbance does not constitute a nuisance. Despite the Board’s determination, the parties retain the right to take appropriate legal action against each other without involving the Association.

7.12 Obstruction of Common Areas. Obstruction or misuse of the Common Area or Exclusive Use Common Area for other than its intended purpose is prohibited unless expressly permitted in writing by the Board for good cause.

7.13 Occupancy Restriction. No more than two (2) Persons per bedroom plus one additional Person may reside in a Unit. For purposes of this restriction, “reside” means to use or occupy any Unit for more than thirty (30) consecutive days or more than sixty (60) aggregate days, whether or not consecutive, in any one calendar year. Along with other remedies provided for in these CC&Rs, if the Association pays for water for all Units, the Board may impose a water usage surcharge per Person residing in a Unit over the occupancy restriction.

7.14 Quiet Enjoyment. No one may engage in any behavior, whether verbal or physical, including, but not limited to, the posting or distributing of documents, openly or anonymously, anywhere in the Development, where such behavior is abusive, harassing, threatening, intimidating, defaming, slanderous, unlawfully aggressive, or otherwise legally actionable against other Members, Residents, guests, invitees, Board members, or the Association’s management, employees, agents, or vendors. Because such breaches of quiet enjoyment are largely subjective, the Board may choose to act only against egregious breaches. When the Association chooses not to act on a complaint of breach of quiet enjoyment, or the complaining party believes the Association’s action is not sufficient, such party may take legal action to enforce this provision against other Members and Residents, but is not permitted and

expressly waives his/her right to take any action, legal or otherwise, including commencing or maintaining a lawsuit against the Association and its Officers, Directors, employees, and agents for their failure to act on the party's complaint or for the manner in which they handled it.

7.15 Residential Use. Using a Unit, or permitting a Unit or any portion of it, to be occupied or used for any purpose other than a private residential dwelling is prohibited. Units must not be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purposes. Notwithstanding the foregoing, Residents may use a room in their Unit as a home office, provided that (1) the primary use of the Unit remains as a Residence, (2) no business advertising or signage is used in connection with the home office use, (3) package deliveries are kept to a minimum, and (4) no customers, clients or patients visit the Unit. The Board may adopt additional Rules regarding the use of such home offices.

7.16 Roof Restricted Access. Members and their families, Unit Residents, guests, employees, vendors, and agents are prohibited from entering onto the Association's Common Area roofs without the prior written consent of the Board.

7.17 Sale of Unit. The Association may impose restrictions or limitations on open houses, brokers' caravans and other matters relating to the Unit's sale in the Rules and Regulations.

7.18 Satellite Dishes. Satellite dishes may only be installed as provided for in the Rules and Regulations, Architectural Standards, and applicable law.

7.19 Signs, Posters and Flags. Signs, posters, flags, banners, notices, nameplates, cards, and advertisements of any kind may only be displayed to the public view on or from any Unit or in or on any Common Area, including any Exclusive Use Common Area, as allowed by law. Owners may display one sign in a designated area of reasonable dimensions and design, advertising that the property is for sale or lease, as allowed by law and subject to any restrictions in the Rules and Regulations. Commercial signs may not be displayed.

7.20 Smoking and Vaping. All smoking, vaping, and use of e-cigarettes are prohibited everywhere in the Development, whether in Units, the Common Areas or any Exclusive Use Common Area, except within specifically designated smoking areas. "Smoking" means, but is not limited to, any practice by which a substance, whether tobacco, marijuana or any other substance, is burned to inhale its smoke. "Vaping" means inhaling water vapor to obtain nicotine, cannabis, or other substances. "E-cigarette" means an electronic device that vaporizes liquid nicotine, cannabis, or other substances. The Board may adopt additional Common Area restrictions concerning Smoking, Vaping and E-cigarette use, consistent with these CC&Rs.

7.21 Solar Energy Systems. Solar Energy Systems may only be installed after obtaining written approval of the Architectural Committee and as provided for in the Rules and Regulations, Architectural Standards, and applicable law.

7.22 Spas, Hot Tubs and Saunas. No spa, hot tub, or sauna may be installed in any Unit without the written approval of the Architectural Committee or the Board. Such installations must conform to the Association's Architectural Standards. Spas, hot tubs, and saunas are prohibited on Patios and Balconies.

7.23 Storage, Laundry and Heater Areas. Storage areas, laundry areas, Heating Areas and water heater enclosures may only be used as provided for in the Rules and Regulations. Under no circumstances may explosives, fireworks, or highly flammable or highly corrosive materials be stored in such areas. Members must keep their storage areas, laundry areas and Heater Areas hazard-free at all times. Members must supply locks to secure their possessions and insure stored items against loss. Washer and dryers must fit within the Landry enclosure so that the laundry enclosure doors fully and properly close.

7.24 Toilets. No "turbo" toilets or any other types of noisy toilets are permitted.

7.25 Use of Independent Contractors. Members may use independent contractors to perform work in their Units subject to the Association's Construction Guidelines, if any. Such contractors must be licensed and insured as required by law. The Association may, but not required to, police or enforce this provision and has no responsibility or liability for failing to do so. Members are liable for any injury to persons or damage to the Common Areas, Exclusive Use Common Areas, Units and any personal property caused by the acts or omissions of such Member's contractor. The Association is authorized, in its sole discretion, to repair, restore or replace property damaged by a Member's contractor and may impose a Reimbursement Special Assessment against the responsible Member for all costs and expenses incurred by the Association from repairing the damage. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924(b), and 2924(c).

7.26 Vibrations. No Member may operate any fixtures or equipment which cause unreasonable vibrations or noise, which annoy residents of other Units.

7.27 Window Coverings. Appropriate window coverings must be installed on windows and properly maintained at all times. The color of such window coverings must be in harmony with the structure's exterior. No window may be covered by paint, aluminum foil, newspapers, bed sheets, cardboard, blankets, or similar items.

7.28 Heater Area Modifications. Modifications to the Heater Areas are prohibited.

7.29 Water Beds. No water beds are permitted in the Units.

## ARTICLE 8: LEASING AND OWNERSHIP LIMITATIONS

In addition to the restrictions found in Article 7, that Members may not use their Units for business, commercial, manufacturing, mercantile, storing, or vending purposes, the following residential restrictions apply:

8.1 No Hotel Purposes. Units may not be rented for hotel, fractional or similar purposes.

8.2 No Short-Term and Transient Rentals.

- a. *Prohibited Short Term Rental Period.* Short-term and transient rentals or leases of a Unit for less than thirty (30) days are prohibited.
- b. *Advertising Limitation.* No Unit may be advertised with Airbnb, VRBO, Flipkey, or by any other means, as being available for rent or lease for less than thirty (30) days or in a manner that would suggest or imply the Unit was available for rent or lease for less than thirty (30) days.

8.3 Lease of Less than Entire Unit. No Member may lease or rent less than the entire Unit unless a Member also resides in the Unit. The entire Unit, or any portion thereof as permitted herein, may only be leased or rented under a single lease or rental agreement signed by all adult Tenants occupying the Unit.

8.4 Lease and Rental Requirements.

- a. *Minimum Lease Term.* The initial term of a Unit lease must be for at least thirty (30) days.
- b. *Re-Leasing Within Thirty (30) Days of Lease Start.* If a Tenant terminates their lease or rental agreement or otherwise vacates the Unit before the end of the term of the lease or rental agreement, the Member is not permitted to re-lease or re-rent the Unit until at least thirty (30) days have passed since the beginning of the term of the lease or rental agreement.
- c. *No Assignment or Subleasing.* No lease of or rental agreement regarding a Unit may be assigned. No Unit may be sublet or subleased.

8.5 Rental Cap. No more than twenty-five percent (25%) of the Units in the Development may be leased to Tenants at any given time. If a Member wishes to lease a Unit to a Tenant at a time when twenty-five percent (25%) of the Units are already being leased, the Member may appeal to the Board for a special exemption.

- a. *Rental Cap Exception.* All record Owners of a Unit on the date these CC&Rs are recorded may rent or lease their Unit to Tenants regardless of the percentage of rented or leased Units. Members must adhere to all other rental or lease prohibitions, restrictions, rules and requirements.
- b. *Waiting List.* Any Member wishing to lease a Unit must submit a written request to the Board to ensure the leasing capacity has not been met. When at least twenty-five (25%) of all Units are leased or rented to Tenants, the Board must maintain a waiting list.
- c. *Units with Member in Residence Not Subject to Rental Cap.* Units are not deemed to be counted toward the rental cap while a Member resides in the Unit.

8.6 Lease and Rental Agreements and Addendums.

- a. *Leases and Rental Agreements in Writing.* All leases and rental agreements between a Member and Tenant must be in writing.
- b. *Required Lease and Rental Agreement Provisions.* All provisions of any leases and rental agreements between a Member and Tenant must be consistent with and not violate any of the Association's Governing Documents. All leases must include, at a minimum, provisions that require Tenants (1) to comply with all provisions of the Association's Governing Documents and (2) to be bound by and subject to the same disciplinary procedures and fines as Members.
- c. *Lease Addendum.* Member, Tenant, and the Association may also execute a "Lease Addendum" supplied by the Association, in which the parties allow the Association to directly enforce the terms of the lease or rental agreement between Member and Tenant or such other terms to which the parties may agree.

8.7 Governing Documents. Members must provide their Tenants with the Association's Rules and Regulations and ensure compliance with them.

8.8 Transfer of Common Area Privileges. Any Members residing offsite and whose Unit is occupied by others automatically transfers the Members' rights to use the Association's Common Area facilities to the Residents until the Member retakes possession of the Unit.

8.9 Transfer of Occupancy. Members living offsite must promptly provide the Association with the current name, address, phone number, and email address of all Unit Residents and any changes in such information.



8.10 Repairing Damage. Members are liable for all damage to the Units, Common Areas, including Exclusive-Use Common Areas, and any personal property caused by the negligent acts or omissions of such Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets. The Association is authorized, in its discretion, to repair, restore or replace such damaged property and may impose a Reimbursement Special Assessment against the liable Member for all costs and expenses incurred by the Association from repairing, restoring or replacing the damaged property. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Unit under Civil Code sections 2924, 2924b, and 2924c.

8.11 Unlawful Detainer. Members who lease their Units must ensure compliance with the Association's Governing Documents by their Tenants. If a Member fails to take legal action against his/her Tenant, who violates the Governing Documents, within ten (10) days after receipt of the Association's written demand to do so, the Association may institute unlawful detainer proceedings on behalf of such Member and against the Tenant and the Association is hereby granted the right of possession to the Unit for such purpose. The Association may be awarded costs of suit and attorneys' fees by the court as provided by law.

8.12 Assignment of Rents. As security for the payment of Assessments, fines, and other sums owed to the Association, Members who lease their Units pledge their rights as Landlords (including the right to receive rent) to the Association. If a Member becomes delinquent in payment of Assessments or fines to the Association, the Association may assign the rents payable by the Tenant to the Association until the Member's account is paid in full as provided for in Civil Code §2938 or any other provision of law. During the assignment period, Members have no right to collect the assigned amounts from Tenants and may not evict Tenants for complying with the Association's assignment of rents.

## **ARTICLE 9: PETS**

9.1 Pet Limitation. Usual domesticated dogs, cats, and birds may be kept in Units as pets. Only (1) dog or two (2) cats may be kept as a pet within any Unit. Aquariums of 100 gallons or less may be maintained in Units with only non-poisonous, legal, aquatic creatures, excluding any snakes. No animal may be kept, bred, or maintained: (i) for any commercial purpose; (ii) in unreasonable numbers; or (iii) for any purpose that would involve any odor, noise, or other nuisance which would unreasonably disturb the use and enjoyment of any portion of the Development by other Members. The Board may adopt additional Rules and Regulations regarding the quantity, kinds and sizes of pets and tanks that may be kept and other pet issues not conflicting with these CC&Rs.

9.2 Size Limitation. No dog that exceeds twenty-five (25) pounds is permitted. With proper documentation permitted by law, physically or mentally disabled individuals may have an assistance/service dog over the weight limitation.

9.3 Assistance Animals. An animal otherwise prohibited by these CC&Rs, which a Resident keeps for the purpose of servicing the Resident's qualified disability, may be kept by such Resident provided the animal is properly cared for (i.e., kept healthy, clean, and properly groomed and waste material is properly disposed of) and not unruly or disruptive (e.g., barking, growling, running loose, displaying aggressive behavior, etc.). All pet rules apply to assistance animals unless contrary to law.

9.4 Nuisance. The Board is authorized to prohibit any animal which, in its opinion, constitutes a nuisance to other Members according to evidence provided at a noticed hearing. Pet or other animal owners shall be responsible for the prompt removal and proper disposal of animal wastes from their animals and shall be solely responsible for the conduct of the pet or other animal.

9.5 Dangerous Animals. No wild or undomesticated animal, or animal which the Board has determined to be aggressive or dangerous according to evidence provided at a noticed hearing, may be kept in the Development.

9.6 Prohibited Dog Breeds.

- a. The following breeds of dogs may not be kept as pets: Pit Bull, German Shepherd, Alaskan Malamute, Chow, Great Dane, Rottweiler, Dalmatian, Presa Canario, Husky, Wolf-dog hybrid, Doberman Pincher, Akita, and Jindo. The term Pit Bull refers to any dog that is or is mixed with a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog that exhibits physical traits of any one or more of these Pit Bull breeds or any dog exhibiting those distinguishing characteristics which conform to the standards established by the American Kennel Club ("AKC"), United Kennel Club ("UKC"), or American Dog Breeders Association ("ADBA") for any of these Pit Bull breeds.
- b. If a dog's breed is unknown or disputed, the Board's determination that the dog exhibits the physical traits or distinguishing characteristics of one of these prohibited breeds which conform to the standards established by AKC, UKC, or ADBA, is sufficient to expel the dog from the Development.
- c. A Member appealing the Board's decision has the burden to show the dog is not of a prohibited breed. A Member's failure to appeal the Board's decision within

thirty (30) days of receiving the Board's determination letter is deemed an acceptance and agreement with the Board's determination.

- d. The Association is authorized to restrict other categories of animals that are dangerous or have aggressive tendencies, as designated by the insurance industry or a governmental agency.

9.7 Liability. Members are liable for any injury to Persons or property caused by any animal brought or permitted onto or kept within the Development by the Member, Member's Tenant or their respective family, guests, or invitees.

9.8 Control. Pets are permitted in the Common Area, only as permitted by the Rules or this Section. All dogs in the Common Area must be on a leash held by a Person capable of controlling the dog. The Association may remove any unleashed dog found within the Common Areas to a pound or animal shelter under the jurisdiction of the city or county in which the Development is located.

## **ARTICLE 10: VEHICLES AND PARKING**

10.1 Management of Parking. The Association manages and controls all Common Area parking and private streets.

10.2 Restricted Parking. Only the following types of vehicles may be parked in parking spaces: automobiles, trucks, motorcycles, and mopeds. Vehicles must be parked completely within the parking space. No RV, camper, boat, recreational watercraft, trailer, or other similar vehicle is permitted in any portion of the Common Areas or parking space. Only permitted vehicles may be stored in parking spaces.

10.3 Commercial Vehicles. Commercial vehicles, including pickup trucks one ton or larger panel trucks, tow trucks, stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, taxis, buses, vans designed for ten (10) people or more, vehicles with commercial signage, and the like, are prohibited, except as provided in the Rules and Regulations.

10.4 Assigned Parking. Each Member is assigned one (1) covered parking space for their exclusive use or that of their Tenants. Unless prohibited by law, the Association may suspend such use at a disciplinary hearing due to delinquent assessments, unpaid fines or other charges, and repeated Governing Document violations. Each Member is solely responsible for ensuring that his/her vehicle, or that of his/her Tenants, fits within the Member's assigned parking space(s).

10.5 Use of Parking Spaces. No Owner shall use more than two (2) parking spaces in the Development without the approval of the Board. No Owner may use a vehicle, tent or other equipment as living quarters or storage in any parking space.

10.6 Guest Parking. Guest parking is limited by and subject to the Association's Rules and Regulations. Unless prohibited by law, the Association may suspend guest parking rights at a disciplinary hearing due to delinquent assessments, unpaid fines or other charges, and repeated rules violations.

10.7 Renting of Parking Spaces. Renting or leasing a parking space to any person, except to a Tenant as part of a Unit lease, is prohibited.

10.8 Registered and Proper Operating Condition. All vehicles parked in the Development must be registered and maintained in proper operating condition and not be a hazard or nuisance by noise, exhaust emissions, or appearance. All vehicles parked in the Development must carry current registration tags and be insured.

10.9 Limited Operation. The operation of vehicles in the Common Areas is only permitted to move the vehicle into or out of the Parking Areas.

10.10 Electric Vehicle Charging Stations. Members are permitted, with the Architectural Committee or Board's written approval, to install at their expense an electric charging station compliant with Section 4745 of the Civil Code or any successor statute. Use of Association electricity to power a Member's electrical vehicle charging station is prohibited unless, following written approval of the Architectural Committee or the Board, the Member has installed an electrical submeter to track electricity usage. The Member must pay the Association for all Association electricity used by the electric vehicle charging station. The Association may impose reasonable requirements on the location and installation of the equipment. A licensed electrician must do all electrical work with appropriate permits from the Building Department.

10.11 Noise Limitation. All vehicles must be configured to operate quietly.

10.12 Repair of Vehicles. Construction, repair, or servicing of vehicles within any portion of the Development is prohibited. However, when necessary, emergency repairs may move a vehicle to a proper repair facility.

10.13 Washing of Vehicles. Vehicles may be washed in the designated car wash area, subject to the Rules and Regulations. Washing of vehicles anywhere else within the Development is prohibited. Detailing of vehicles within the Development is prohibited.

10.14 Fluid Leaks. Members must keep the Common Area free of vehicle fluids such as oil, radiator coolant, brake fluid, power steering fluid, etc. Members who fail to do so are subject to fines or other penalties and a Reimbursement Assessment for the cost of cleaning the affected areas.

10.15 Theft or Damage. The Association is not liable for any loss or damage suffered by any Member, Tenant, or guest due to theft of or damage to any vehicle or vehicle contents unless resulting from the Association's intentional misconduct or gross negligence.

10.16 Impeding Access. Vehicles must not impede or prevent ready access to any door, gate, entrance, sidewalk, walkway, driveways, exit, or fire lane.

## **ARTICLE 11: ENFORCEMENT OF GOVERNING DOCUMENTS**

11.1 Association Enforcement Rights. In addition to any other rights described in these CC&Rs and without waiving the Association's right to institute any other enforcement measures, and subject to the notice and hearing provisions in the Bylaws and as required by law, the Association is authorized to enforce the Governing Documents by any of the following means:

- a. *Monetary Penalties (Fines)*. The Board is authorized to assess reasonable monetary penalties (fines) for violations of the Association's Governing Documents by a Member, Member's Tenants or their respective family, invitees or guests. A monetary penalty (fine) imposed by the Association as a disciplinary measure for the failure of a Member to comply with the governing documents is hereby treated and deemed to be an assessment that may become a lien against the Member's Separate Interest, but such lien may not be enforced by the sale of the interest under Sections 2924, 2924b, and 2924c (non-judicial foreclosure). As assessments, Members are liable for all collection costs, including reasonable attorneys' fees, court costs, and related expenses for delinquent monetary penalties (fines).
- b. *Suspend Common Area Privileges*. The Board is authorized to temporarily suspend Common Area privileges of Members, Member's Tenants and their respective family, invitees, and guests for their failure to comply with the Association's Governing Documents. Any such suspension must be for a period not to exceed thirty (30) days for each noncontinuing violation. The suspension may be imposed for as long as the violation continues for continuing violations.
- c. *Dispute Resolution*. As to any dispute between a Member and the Association, the Association is authorized to engage in Internal Dispute Resolution and Alternative Dispute Resolution as provided in the Governing Documents and the law.
- d. *Judicial Enforcement*. A lawsuit for damages, declaratory relief, and injunctive relief may be filed, whether or not the relief sought is for negative or affirmative action.

11.2 Cumulative Remedies. The respective rights and remedies, provided by the Governing Documents, under the law, or available in equity, are cumulative, and the exercise of any one or more of such rights or remedies does not preclude or affect the exercise, at the same or at different times, of any other such rights or for the same or different failures of the Members or others to perform or observe any provision of the Governing Documents.

11.3 Failure to Enforce Not a Waiver. Failure to enforce the Governing Documents, whether by the Board or any Member or other Person entitled to enforce them, is not deemed a waiver of the right to do so. Waiver or attempted waiver of any provision of the Governing Documents concerning a given Unit is not deemed a waiver of such right as to any other Unit. Additionally, violation of any provision of the Governing Documents by the Members owning any Unit or Units does not affect the applicability or enforceability of any provision of the Governing Documents against the Members owning any other Unit.

11.4 Remedy at Law Inadequate. If remedies at law for violation of the Association's Governing Documents are inadequate, then equitable, declaratory, and injunctive relief may be sought and awarded.

11.5 Right of Action Against Buyer. If a Member fails to correct architectural, nuisance, or other continuous violations concerning the Member's Unit before transferring title to the Unit to a buyer, the Association retains the right to enforce compliance against the buyer for such violations.

11.6 Right to Request Identification. All Persons using the Association's Common Area facilities must show proper identification when requested by Directors of the Board or the Association's peace officers or security personnel.

11.7 Attorneys' Fees. If any party initiates any action or proceeding to enforce or interpret the Governing Documents or California law relating to the Development, the prevailing party is entitled to recover reasonable attorneys' fees and court costs, including reasonable expert fees, as permitted by law.

## **ARTICLE 12: RIGHT OF ENTRY**

12.1 Limited Right of Entry. During reasonable hours and subject to the notice requirements contained in this Article, the Association's representatives, employees, and vendors are authorized to enter Units, Common Areas, and Exclusive Use Common Areas: (i) to inspect and perform maintenance, repairs, or replacements to the Common Areas or Exclusive Use Common Areas; or (ii) to mitigate or repair damage; or (iii) to inspect the Units and Exclusive Use Common Areas to ensure compliance with the Governing Documents.

12.2 Notice of Entry. The Association must give at least three (3) business days' written notice by personal delivery, or five (5) calendar days' written notice by first class mail or email, to the Resident and a Unit Owner, stating the purpose and time of the entry. Email notification may be used only if the recipient previously consented to receive such notices and communications from the Association by email.

12.3 Avoid Unreasonable Interference. The right of entry must be exercised to avoid unreasonable or unnecessary interference with the possession, use, and enjoyment of the Member or Resident of such Unit.

12.4 Emergency Entry. In an emergency, the Board or its authorized representatives may enter the Unit without permission and is not subject to liability to the Member or Resident for such entry. If exercised in good faith, such entry is deemed to be consented to by all Members and does not constitute trespass or any other wrongful act. If the Association must damage or destroy property to gain access to the Unit, the Member will have no right of action against the Association or its representatives for such damage or destruction. However, the Association must repair any such damage or destruction if the emergency did not originate in the affected Unit. Before emergency entry, if feasible, the Board must make a good faith effort to contact a Member owning the Unit.

12.5 Refusal to Allow Entry.

- a. *Entry by Court Order.* Following any refusal to expressly grant entry permitted in these CC&Rs, the Association may file suit and seek a court order to gain entry authorized in these CC&Rs. However, if the Member owning the Unit or a Resident of the Unit has expressly prohibited entry authorized in these CC&Rs, the Association's representatives may gain entry only after filing suit and obtaining a court order.
- b. *Entry without Court Order.* If the Member owning the Unit or a Resident of the Unit does not expressly prohibit entry authorized in these CC&Rs but is unavailable or otherwise refuses to expressly grant access, the Association, through its representatives, may enter the Unit, without a court order, in the manner permitted elsewhere in this Article. When acting in good faith, such persons entering with no court order are not liable for trespass or any other unintentional damages resulting from such entry.
- c. *Recovery of Attorneys' Fees and Costs in Lawsuit.* If the Association files a lawsuit to gain entry and prevails, it is entitled to recover by from the Member, by judgment, all expenses the Association incurred because of refusal to allow entry, including, without limitation, the cost of hiring a locksmith, the cost of repairing the damage that was reasonably necessary to gain entry, and reasonable attorneys' fees and costs of suit for the enforcement of this provision of the CC&Rs as the court may order.
- d. *Expenses Not Recovered as Part of a Lawsuit.* If the Association gains entry without a court order or chooses not to seek recovery of its expenses in a lawsuit, it may recover all expenses it incurred because of refusal to allow entry, including, without limitation, the cost of hiring a locksmith and the cost of repairing the damage that was reasonably necessary to gain entry, but excluding attorneys' fees, by a Reimbursement Special Assessment against the Member, enforceable by all means provided for in these CC&Rs and by law, including lien and foreclosure.

12.6 Damage Repaired by Association. Any damage caused by the Association to the Common Areas or Unit improvements must be promptly repaired by the Association to original building construction standards. The Association is authorized to recover the cost of any damage caused by others, but repaired by the Association, by a Reimbursement Special Assessment (if caused by a Member, a Member's Tenant, family member, invitee or guest), or any other legal means against the responsible parties.

12.7 Power to Vacate Unit. The Association may require Residents to vacate a Unit to allow maintenance, repair or replacement of the Association's Common Areas or other areas for which the Association is obligated. All costs of temporary relocation during the maintenance, repair or replacement of the areas within the responsibility of the Association must be borne by the Member owning the Separate Interest affected, and not the Association, per the Davis-Stirling Act. Such temporary relocation costs include, without limitation, food, lodging, lost rent or other income, and any other associated expenses incurred by the Member. However, the Association must diligently make such repairs reasonably quickly.

- a. *Notice.* The Board must give notice of the need to temporarily vacate a Unit to Residents and Members not less than fifteen (15) days before the date of the relocation. The notice must state the reason for the temporary relocation, the date and time of the repairs, and the anticipated date and time of completion. The notice must be either by personal delivery or first-class mail to the address shown on the books of the Association.
- b. *Duty to Vacate.* Members and Residents must cooperate with the Association and vacate their Units if requested by the Association. If not, the Association may file a lawsuit to require cooperation and the Unit to be vacated.
- c. *Recovery of Attorneys' Fees and Costs in Lawsuit.* If the Association files a lawsuit to require cooperation or require the Unit to be vacated and prevails, it is entitled to recover from the Member, by judgment, all expenses the Association incurred because of refusal to cooperate or vacate, including, without limitation, reasonable attorneys' fees and costs of suit for the enforcement of this provision of the CC&Rs as the court may order.

12.8 Entry by Member. Each Member must permit other Members and their representatives to enter his/her Unit to perform installations, alterations, or repairs to the mechanical or electrical services to a Unit, if: (i) requests for entry are made in advance; (ii) entry is made at a time reasonably convenient to the Member whose Unit is being entered; and (iii) the entered Unit is left in substantially the same condition as existed immediately preceding such entry. The entering Member must repair any damage to the Unit caused by the entry. Both the Member allowing entry and the Member gaining entry must hold harmless and defend the Association and its Officers, Directors, Committee members, Members, agents, and employees



against claims of damage or injury resulting from one Member's entry into another Member's Unit.

## **ARTICLE 13: ASSESSMENTS**

13.1 Purpose of Assessments. The general purpose of Assessments is to provide for the recreation, health, safety, and welfare of the Members, enforce and comply with the Governing Documents, manage the Development, enhance the quality of life in the Association, improve, maintain, repair, and replace Common Areas and Exclusive Use Common Areas, provide for the acquisition and maintenance of property, services and facilities devoted to these purposes, and for any action or undertaking on behalf of the Association.

13.2 Regular Assessment. The Board must levy Regular Assessments in an amount sufficient to provide for the performance by the Board of each and every one of its powers and duties provided, however:

- a. *20% Limitation.* Under the Davis-Stirling Act, the Board is not permitted, without Members' approval casting a majority of the votes with a Quorum present, to impose a Regular Assessment which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year. Quorum for this provision means more than fifty percent (50%) of the Members of the Association.
- b. *Uniform Rate of Assessment.* Regular Assessments must be fixed at a uniform rate for all Units.
- c. *Payable Monthly.* Regular Assessments are payable by each Member against whom assessed in twelve (12) equal monthly installments on the first day of each calendar month or at such other dates and in such other installments as the Board determines. Assessments for new Members must be prorated in the first month of membership according to the date the individual becomes a Member.
- d. *Written Notice.* Written notice of any increase in Regular Assessments must be sent by first-class mail to each Member, not less than thirty (30) days or more than sixty (60) days before the increased Assessment is due.
- e. *Modification of Assessment.* The Board may modify the Regular Assessments during a fiscal year if necessary, to conform to a revised estimate of costs and expenses. However, if the aggregate increase exceeds twenty percent (20%) of the Regular Assessment for the immediately preceding fiscal year, the Board must obtain the approval of Members as provided for in the Davis-Stirling Act. If an annual Regular Assessment is not published for a new fiscal year, the Regular Assessment for the prior fiscal year will apply and govern each Member's payments until changed by a new Regular Assessment.

13.3 Special Assessment. In addition to the Regular Assessment, the Board may levy a “Special Assessment” for any purpose necessary for the Association to carry out its duties; provided, however:

- a. *5% Limitation*. Under the Davis-Stirling Act, the Board is not permitted, without Members' approval casting a majority of the votes with Quorum present, to impose a Special Assessment which is more than five percent (5%) of the budgeted gross expenses of the Association for such fiscal year. Quorum for purposes of this provision means more than fifty percent (50%) of the Members of the Association.
- b. *Uniform Rate of Assessment*. Special Assessments are fixed at a uniform rate for all Units.
- c. *Reimbursement Assessments*. Special Assessments are also permitted to be levied against individual Units for reimbursement of expenses incurred by the Association arising out of actions or omissions of such Member, Member's Tenant, or their respective family, guests, invitees or pets, as expressly provided elsewhere in these CC&Rs.
- d. *Payment Schedule*. Special Assessments are payable by each Member against whom assessed either monthly or at such dates and in such installments as the Board determines.
- e. *Written Notice*. Written notice of Special Assessments must be sent by first-class mail to each Member not less than thirty (30) days or more than sixty (60) days before the Assessment is due.

13.4 Emergency Assessment. In emergency situations, the Board may increase Regular Assessments beyond twenty percent (20%) or impose Special Assessments above five percent (5%) only as provided for by law.

13.5 Deposit of Assessments. All sums received by the Association must be promptly deposited into accounts clearly designated in the Association's name.

- a. *Commingling*. The Association must maintain separate accounts for its operating funds and its Reserves, respectively, and no funds from those separate accounts may be commingled at any time.
- b. *Interest*. No Member has the right to receive interest on any such funds deposited.

13.6 Reserves. All sums assessed and collected by the Association which are budgeted to fund Reserves for anticipated long-term maintenance, repair, and replacement of Common Area components, the cost of which would not ordinarily be incurred on an annual basis, must:

- a. *Be Segregated*. Be received in trust by the Board, set aside and segregated from the other monies and not be commingled with the Association's Operating Account.
- b. *Be Invested*. Be invested in low-risk investments. Reserves must be deposited in financial institutions authorized to do business in California and where the Association's deposits are insured against loss. Alternatively, the Association may deposit funds with brokerage houses or institutions members of the Financial Industry Regulatory Authority and where the Association's deposits are insured against loss.
- c. *Require Two Signatures*. Be withdrawn from the Reserve account only upon approval by the Board and the signature of two (2) Board members.
- d. *No Reimbursement*. All contributions to the Reserves and interest earned are for the benefit of the Association and not to the benefit of any individual Member. As such, contributions and interest are not refundable to Members when they cease to be Members of the Association.
- e. *Reserve Funding Requirement*. Be funded as follows:
  - i. At the beginning of each fiscal year, the Association's reserves must be at least seventy percent (60%) funded, as that percentage is outlined in the Association's Reserve Funding Disclosure Form as specified in Civil Code §5570(a)(6). For this Section 13.6, the Association's actual percentage at the beginning of any fiscal year is defined as the "Reserve Percentage Funded."
  - ii. Once the Reserve Percentage Funded reaches the level required in this Section 13.6, it must be maintained at that level or higher at all times, except as otherwise provided in such Section 13.6.
  - iii. For each upcoming fiscal year in which the Reserve Percentage Funded will be, or is reasonably expected to be, less than the amount required in Section 13.6, the Board, in conjunction with its annual review an existing reserve study, or performance of a full reserve study, and its development of the Association's operating budget for the upcoming fiscal year, must make a good faith effort act to increase the Reserve Percentage Funded by at least five percent (5%), or a lesser amount if sufficient to reach the required percentage, during the upcoming fiscal year.

- iv. Notwithstanding any contrary provision of this Section 13.6, nothing in said Section will (a) prevent the Association from spending Reserves on reserve items identified in its reserve study when necessary to fulfill the Association's obligations to maintain, repair and replace all or any portion of such reserve items, or (b) obligate the Association to pursue or impose an assessment increase requiring membership approval.

## **ARTICLE 14: ENFORCEMENT OF ASSESSMENTS**

14.1 Liability for Assessments. Together with charges, interest, costs, and attorneys' fees (regardless of whether legal proceedings are instituted), Assessments are a debt of each Owner of a Separate Interest at the time the assessment or other sums are levied. Co-Owners and Members owning a full or partial interest in a Unit are jointly and severally liable for the entire amount of all Assessments, late charges, interest, reasonable collection costs, reasonable attorneys' fees, and monetary penalties.

14.2 Enforcement Rights. In addition to any other rights provided for by law or described in these CC&Rs, the Board has the right to collect delinquent Assessments as follows:

- a. *Late Fees and Interest.* Unpaid Assessments are deemed delinquent fifteen (15) days after they are due and are subject to a late charge of the greater of either ten percent (10%) or Ten Dollars (\$10.00), which may not be imposed more than once on any delinquent payment, and interest at the rate of twelve percent (12%) per annum, which may commence thirty (30) days after the Assessment becomes due.
- b. *File Suit.* The Association is authorized to commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien and initiate foreclosure against the Member's Unit for the delinquent Assessment. In any action to collect delinquent Assessments, late charges or interest, the prevailing party is entitled to costs and reasonable attorneys' fees. All amounts included in any judgment may become the subject of a judgment lien in any county in California in which an abstract of judgment is recorded.
- c. *Lien and Foreclose.* Under the Davis-Stirling Act, a delinquent Assessment or installment, together with any late charges, interest, costs, attorneys' fees, and penalties, will become a lien on the Unit upon the recordation of a "Notice of Delinquent Assessment" in the Office of the County Recorder. The Board may enforce any Assessment lien against a Unit by filing an action for judicial foreclosure or by nonjudicial foreclosure in the manner provided for in the Davis-Stirling Act. The Association, through its Board, is authorized to bid on the Unit at the sale and may hold, lease, mortgage, and convey the acquired Unit as permitted by law.

- d. *Continuing Lien.* Any demand or claim of lien or lien on account of prior delinquencies is deemed to include subsequent delinquencies and amounts due on account thereof. It is the intent of these CC&Rs that any lien recorded against a Separate Interest by the Association to secure payment of delinquent assessments and other amounts be a continuing lien to include any and all subsequent assessments and other amounts as permitted in the Davis-Stirling Act, to the full extent allowed in *Bear Creek Master Ass'n v. Edwards*, (2005) 130 Cal. App. 4th 1470.
- e. *Suspend Privileges.* Subject to the notice and hearing provisions outlined in the Bylaws, the Association is authorized to suspend membership privileges, except voting rights, until the delinquent Assessments, fees and fines, including any accumulated penalties, interest, and collection costs, have been paid in full.
- f. *Additional Remedies.* The remedies provided in this Section are in addition to, not in substitution for, any other rights and remedies which the Association may have.

14.3 No Offsets. All Assessments are payable in the amount specified by the Assessment and no offsets against such amount are permitted for any reason, including, without limitation: (i) a claim that the Association is not properly exercising its duties and powers, as provided in these CC&Rs; (ii) a Member has not made or elects not to make use of the Common Area; (iii) any maintenance, repairs or replacements for which the Association is responsible have not been performed or have not been performed to a Member's satisfaction.

14.4 No Exemption by Waiver of Use. Members are not permitted to exempt themselves from liability for Assessments nor release their Units from liens and charges by waiver of their use and enjoyment of the Common Areas, by the abandonment of their Units, or through non-use of Common Areas or membership privileges.

14.5 Attorneys' Fees. Any reasonable attorneys' fees and costs incurred by the Association in collecting assessments, late fees, and interest against a Member may become a Reimbursement Special Assessment against that Member, which may be collected in any manner provided for by these CC&Rs or by law.

14.6 Non -Waiver of Assessments. If the Board fails to approve a Budget or fix the Assessments for the current year, the Budget and Assessments from the preceding year continue until a new Budget is approved and new Assessments are fixed.

## **ARTICLE 15: INSURANCE**

15.1 Association Insurance. The Association must obtain and maintain policies of insurance as described below. To help keep premiums at a reasonable level, the Association is

authorized to establish appropriate deductibles for its policies of insurance. Unless otherwise determined by the Board, coverage must be on an occurrence basis.

- a. *Automobile Liability Insurance.* If appropriate, the Association may purchase non-owned and hired automobile liability coverage and garage-keepers legal liability coverage.
- b. *Boiler and Machinery Insurance.* If appropriate, the Association may purchase insurance for the loss or damage to or resulting from equipment failures such as boilers, pressure vessels, pressure pipes, motors, mechanical breakdowns, electrical failures, and the like.
- c. *Commercial General Liability (“CGL”).* The Association must maintain one or more CGL policies that provide appropriate liability limits for injury or death to one or more Persons in any one accident or occurrence. The Association must carry coverage in amounts that meet or exceed those called for in Civil Code §5805 and any successor statutes.
- d. *Direct Physical Loss.* The Association must maintain one or more policies for loss or damage by fire or other perils covered by the standard “Special Form” policy (or its equivalent) covering all Common Area Improvements in the Development and other Improvements in the Development as the Board may deem appropriate. The Board is authorized, in its sole discretion, to limit the scope of coverage under such policies to what is commonly referred to as “bare walls,” which exclusions from coverage may include, but are not limited to, the following fixtures and components within or appurtenant to a Separate Interest:
  - i. Exclusive Use Common Areas;
  - ii. Floor, wall, and ceiling coverings;
  - iii. Forced air units, heaters, and electrical and plumbing fixtures;
  - iv. Water heaters, water softeners, water filters, and built-in and free-standing appliances;
  - v. Built-in cabinets and countertops;
  - vi. Window treatments and components, such as curtains, drapes, blinds, and related hardware;
  - vii. Personal property of a Member;
  - viii. Betterments and improvements made by the Members; and

ix. Replacements of any of the foregoing.

The amount of such insurance must not be less than one hundred percent (100%) of the aggregate full insurable value, meaning replacement cost, not a depreciated amount or actual cash value (ACV), if available. If available, the coverage must be written on a blanket basis with an agreed value endorsement and an inflation guard endorsement. The Association's insurance policy must be primary with respect to property damage in the event of overlapping coverage with a Member's property damage policy. Because construction costs can be unpredictable and suddenly escalate whenever large losses occur, Directors are not liable if actual construction costs are greater than the 100% replacement cost provided by the insurance policy. In addition, if available, the Association must include the following:

1. "Ordinance or Law Coverage" or its equivalent, including:
  - (a) Coverage for Loss to the Undamaged Portion of the building or structure.
  - (b) Demolition Cost Coverage.
  - (c) Increased Cost of Construction Coverage.
2. "Maintenance Fees Receivable" coverage, or its equivalent, to cover the loss from unpaid or uncollected Assessments resulting from a covered property loss.
3. Such other endorsements which the Board may deem necessary or reasonable.

- e. *Directors and Officers.* The Association must purchase Directors and Officers errors and omission insurance insuring the Association, Directors, Officers, Committee members, trustees, Association employees, Association volunteers, any community manager in contract with the Association, any management company in contract with the Association and employees of such Association management company who perform services on behalf of the Association. The Association must carry coverage in amounts that meet or exceed those called for in Civil Code §5800 and any successor statutes.
- f. *Earthquake Insurance.* The Association may purchase earthquake insurance after considering the cost and availability.

- g. *Employment Practices Liability.* When available and affordable, the Association should consider purchasing employment practices liability coverage (whether or not it has employees).
- h. *Crime Insurance and Fidelity Bond.* The Association must maintain crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent, for its directors, officers, and employees in an amount equal to or more than the combined amount of the reserves of the Association and total assessments for three months. The coverage maintained by the Association shall also include protection in an equal amount against computer fraud and funds transfer fraud. If the Association uses a managing agent or management company, the Association's crime insurance, employee dishonesty coverage, fidelity bond coverage, or their equivalent shall additionally include coverage for, or otherwise be endorsed to provide coverage for, dishonest acts by that person or entity and its employees. Self-insurance does not meet the requirements of this section.
- i. *Flood Insurance.* When required by any first mortgage holder, Fannie Mae, Freddie Mac, or the Fair Housing Administration (FHA), the Association must purchase flood insurance on any portion of the premises that Federal Emergency Management Agency (FEMA) determines to be in a Special Flood Hazard Area (SFHA). Otherwise, the Association may purchase flood insurance after considering the cost and availability.
- j. *Umbrella Policy.* The Association may purchase an excess or umbrella policy over its public liability and property damage, Directors and Officers liability, and workers' compensation policies to provide higher liability limits as the Board determines.
- k. *Workers' Compensation.* The Association must carry workers' compensation insurance as required by law to cover employees of the association. The Association may also purchase a Voluntary Labor Endorsement to protect its volunteers if available.

15.2 Member Obligation to Carry Insurance. At their sole expense, Members must purchase insurance covering their person and property, including, without limitation: (i) real property and personal property coverage that insures their Separate Interest and its contents against damage or loss, including, but not limited to, all fixtures, components and Unit Improvements within or appurtenant to the Separate Interest or Exclusive Use Common Area which are not covered by the Association's property damage policy; (ii) premises liability that includes protection for bodily injury and property damage; (iii) personal liability coverage, (iv) loss of use that protects a Member for additional living expenses should his/her Unit become uninhabitable due to a covered loss; (v) loss assessment coverage that protects against Special



Assessments due to a loss which exceeds the Association's master policy limits or deductible, (vi) master policy deductible coverage, and (vii) such other coverage as the Member deems appropriate. In addition, if a Member operates a vehicle driven across the Association's Common Areas, the Member must carry appropriate automobile insurance. The Association has no obligation to police this provision and is specifically relieved of any responsibility or liability from doing so or failing to do so.

- a. *Waiver of Claims.* Members waive their claims against the Association to the extent such claims are covered under insurance which Members are required to carry under these CC&Rs, regardless of whether Members actually carry such insurance.
- b. *Assignment of Proceeds.* If any loss intended to be covered by the Association's insurance occurs and the proceeds payable by the Association's insurance are reduced because of proceeds paid under a Member's insurance coverage, that Member must assign such insurance proceeds to the Association, to the extent of the reduction. The Board must apply those proceeds to the same purposes as the reduced proceeds received by the Association.

15.3 Responsibility for Deductible and Uncovered Losses.

- a. *Intentional or Negligent Acts.* If any property is damaged as a result of the intentional or negligent acts or omissions of any Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets, is tendered to the Association's property damage policy, the Member and any other legally responsible parties are solely liable for any portion of such claim not paid due to a deductible.
- b. *Non-Negligent, Unintentional Acts.* If any property damage loss, which resulted from a failure of any component, element, or portion of the Development and did not result from a negligent or intentional act or omission, is tendered to the Association's property damage policy in distributing the Association's insurance proceeds to the various claimants, the Association will apportion the deductible of such policy or policies amongst all claimants according to the percentage each claim bears against the total of all claims for the loss.
- c. *Uncovered Losses.* Apart from deductibles as set forth above, responsibility for any losses for which the Association's property damage policy does not provide coverage will be determined according to the maintenance, repair and replacement provisions outlined in these CC&Rs and the law.

15.4 Liability for Increased Insurance Rates. If any negligent act or omission of any Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets causes

an increase in the cost of the Association's insurance, the amount of the increase must be assessed against the Member and his/her Unit as a Reimbursement Special Assessment.

15.5 Choice of Contractor. For any repairs for which insurance proceeds are paid or are payable to the Association, the Board must designate the contractor to perform the repairs to the Common Areas. Individual Members are responsible for overseeing repairs done to their respective Units.

15.6 Insurance Company Rating. All insurance policies required by this Article must be issued by either a California admitted insurance company or an approved carrier on the California List of Approved Surplus Line Insurers (LASLI). Each carrier must hold an A.M. Best Insurance or Standard and Poor's rating of "A" or better.

## **ARTICLE 16: PROTECTION OF LENDERS**

16.1 Furnishing of Information. Each Lender is, upon written request, entitled to inspect the books and records of the Association during normal business hours and receive written notice of Board and membership meetings and designate a representative to attend such meetings.

16.2 No Priority Over Rights of First Mortgagees. Nothing in these CC&Rs gives a Member or any other party priority over any rights of first mortgagees of Units, according to their mortgages, in the case of a distribution to Members of insurance proceeds or condemnation awards for losses to or taking of Units or the Common Area. Additionally, if any Unit or any portion of a Unit is made the subject matter of any condemnation or eminent domain proceeding, no provision herein entitles the Member, or any other party, to priority over a first mortgagee of a Unit, concerning any distribution of the proceeds of any award or settlement.

16.3 Relationship with Assessment Liens. Any lien that the Association may have on any Unit for the payment of Assessments subordinates to the lien or equivalent security interest of any Lender with a first trust deed or mortgage on the Unit, made in good faith and for value, and no such lien impairs the obligation or the priority of such trust deed or mortgage, unless the Lender expressly subordinates its interest, in writing, to such lien.

16.4 Foreclosure. Any holder of a first mortgage who takes title to a Unit, according to the remedies provided in the mortgage, through foreclosure of the mortgage takes the property free of any claim for unpaid Assessments or charges against the mortgaged Unit which accrued before the time such Person takes title to the Unit.

16.5 Priority of Mortgage Lien. No breach of any provision of these CC&Rs nor the enforcement of any lien created herein affects, impairs, defeats, or invalidates the lien of any mortgage or deed of trust made in good faith and for value, but these CC&Rs are binding upon any Member whose title is derived through foreclosure, trustee sale, or otherwise.

16.6 Payment of Taxes and Charges. Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area. Lenders making such payments shall be owed immediate reimbursement from the Association.

## **ARTICLE 17: LIMITATIONS OF LIABILITY**

17.1 Standard for Liability. Officers, Directors, Committee members, employees, or agents are not responsible to the Association, or any Member, Member's Tenant, or their respective family, guests, or invitees for any loss or damage to the Association, or any Person or property suffered because of water, fire, smoke, explosion, electricity, dust, sand, insect or rodent infestation, or any other source unless there is clear and convincing evidence the damage or loss was caused by the willful, intentional or bad faith misconduct of the Association's Officers, Directors, Committee members, employees, or agents, based upon the information such individual possessed at the time of the purported act or omission. The Association's Officers, Directors, Committee members, employees and agents cannot be held strictly liable for their acts or omissions.

17.2 Limited Personal Liability. No Officer, Director, Committee member, or employee of the Association is personally liable for any loss, injury, or damage to Persons or property for any act or omission, if the act or omission was performed in good faith, within the scope of the Person's duties for the Association, was not self-dealing, and did not constitute willful or intentional misconduct.

17.3 Association Not a Security Provider. The Association is authorized to provide security measures in the Development. However, the Association is not a security provider and has no duty to provide any security in the Development. The obligation to provide security lies with each Member individually. The Association cannot be held liable for any harm, loss or damage to Persons or property because of failure to provide adequate security or ineffectiveness of security measures undertaken. This includes, but is not limited to, any harm, loss or damage from theft of or damage to any article or thing placed in or on any portion of the Common Area.

17.4 Duty to Defend. The Association must indemnify and defend and must advance reasonable attorneys' fees and costs to its Officers, Directors, Committee members, and employees for all expenses and liabilities reasonably incurred by such Person(s) regarding any proceeding (including, but not limited to, alternative dispute resolution proceedings) to which they are a party because of having been an Officer, Director, Committee member, or employee of the Association. However, the Association may seek recovery of its attorneys' fees and costs from and is not liable for any judgments or other liabilities for the acts or omissions of any Persons adjudged to have acted in bad faith or gross negligence in the performance of their duties, to the extent permitted by law.

17.5 Duty to Protect. The Association must protect its Officers, Directors, Committee members, and employees from unlawful harassment in the workplace as such phrase is defined in the law. However, the Association has no duty to prosecute or fund the prosecution of any claim or cause of action which an Officer, Director, Committee member, or employees of the Association asserts against another Officer, Director, Committee member or employee of the Association, or against a Member, which is (1) not based on the conduct of the accused performed in the course and scope of his or her duties (2) founded on personal issues or disputes between the parties, (3) for personal injuries or emotional distress, or (4) for defamation.

17.6 Personal Injury or Property Damage Sustained Within a Unit. This Section applies if any Person sustains a personal injury or property damage within a Unit or on its attached Balcony, Patio or Heater Area and the injury or damage results in a claim against the Association or any of its Officers, Directors, Committee members, Members, agents, or employees. The Owner of the Unit, Patio, Balcony or Heater Area where the injury or damage occurred must: (i) fully indemnify and hold harmless the Association, Officer, Director, Committee member, Member, agent, or employee against whom such claim or suit is brought; and (ii) defend, at his/her own cost and expense, any resulting litigation against the Association, Officer, Director, Committee member, Member, agent, or employee. However, there is no obligation to hold harmless, defend or indemnify any party whose gross negligence or willful misconduct was the cause of the injury or damage.

17.7 Actions Against Directors. Members are not permitted to and waive all rights to file an action or state any cause of action in any pleading against a Director or Officer of the Association, acting within the scope of that person's duties as a Director or Officer unless the court first determines that the Member seeking to file the pleading has established evidence that substantiates the claim.

## **ARTICLE 18: DAMAGE/DESTRUCTION TO IMPROVEMENTS**

18.1 Common Area Damage. All provisions of this Article 18 apply only when the Common Area has been partially or totally destroyed by fire, earthquake, groundwater flooding or other similar casualties. The provisions do not apply to (1) any damage resulting from any plumbing failure originating in a single Unit or (2) any damage resulting from any casualty or occurrence that affected only a single Unit. The provisions of this Article are also subject to any prohibitions against partitioning the Common Area that might apply.

- a. *Cost of Reconstruction*. As soon as practical, the Association shall rebuild the damaged or destroyed portions of the Common Area to substantially the same condition as they existed before such damage.
- b. *Automatic Reconstruction*. If the cost to reconstruct the Common Areas, minus the value of any insurance proceeds due to the Association, is less than or equal to three times the amount of the total annual operating Budget of the Association for the current fiscal year, the Board, without a vote of the

membership, shall cause the Common Area to be reconstructed to substantially the same condition as existed before such damage (subject to any increased building standards then in effect). Such reconstruction must be completed as promptly as practical. Notwithstanding any other provision, the Board is authorized, without a vote of the membership, to levy an Emergency Special Assessment against the membership to provide the funds necessary for such reconstruction or repayment of any monies borrowed by the Association for such reconstruction.

- c. *Membership Approval.* If the Board determines that the cost to reconstruct the Common Areas, excluding the deductible and the value of any insurance proceeds due to the Association, is an amount greater than three times the total annual operating Budget of the Association for the current fiscal year, then the Common Areas must be reconstructed unless sixty-seven percent (67%) of the membership, by ballot or at a special meeting called for such purpose, vote not to reconstruct the damaged or destroyed Common Areas.
- d. *Decision Not to Rebuild.* If the membership votes not to rebuild the Common Areas, the Association or any Member is authorized to file a partition action under Civil Code §4610 seeking to sell the entire condominium project.
- e. *Distribution of Insurance Proceeds.*
  - i. *No Partition Action Promptly Filed.* If a partition action is not filed within six (6) months of the partial or total destruction, the Board must distribute the insurance proceeds available for reconstruction, together with any other sums otherwise available to the Association for such purpose, to the Owners, less costs for clearing the debris, collecting insurance proceeds, and any other expenses necessarily incurred as a result of the damage or destruction, proportionately according to an appraised fair market value of the Condominiums (as of a date immediately before destruction or condemnation). Such payment is subject to rights of Mortgagees holding Mortgages encumbering Units and all unpaid Assessments, together with any interest charges. The Association must pay appraisers hired by the Board to appraise the Condominiums.
  - ii. *Partition Action Promptly Filed.* If a partition action is filed within six (6) months of the partial or total destruction, the Association must interplead the insurance proceeds available for reconstruction, together with any other sums otherwise available to the Association for such purpose, to the Owners, less costs for clearing the debris, collecting insurance proceeds, and any other expenses necessarily incurred as a result of the damage or destruction into the partition action.

18.2 Duties of Board During Reconstruction. If reconstruction is undertaken, the Board must: (i) enter into a written contract with a contractor who is licensed and insured for such repair, reconstruction, and restoration; (ii) disburse insurance proceeds available for the work, along with funds collected because of Assessments, in appropriate progress payments; and (iii) take all steps necessary to ensure the commencement and completion of such repair, reconstruction, and restoration in a lawful, workmanlike manner at the earliest possible date.

18.3 Right of Entry to Assess Damage and Make Repairs. Representatives of the Association, contractors, engineers, workmen, or any other Persons designated by the Board have the right and authority to enter any Unit, Common Area, or Exclusive Use Common Area after such casualty to determine the extent of damage and to make repairs, as provided for under the “Right of Entry” provisions contained in these CC&Rs.

18.4 Power to Vacate Unit. If necessary, the Board has the authority to vacate a Unit to make repairs, as provided for under the “Right of Entry” provisions contained in these CC&Rs.

18.5 Labor and Materials. In determining whether the plans for a reconstructed Building are in substantial conformance with the Condominium Plan, the Board must consider the availability and expense of the labor and materials in the original construction of the Building. If such labor or material is not available or is prohibitively expensive at the time of reconstruction, the Board may substitute other labor or materials as it deems proper.

18.6 Interior Unit Damage. Restoration and repair of any damage caused by fire, earthquake, or other casualties to (i) the interior of any individual Unit; (ii) personal property, furniture, furnishings, and decorations contained within a Unit; or (iii) any Improvements which were added to the Unit by any present or prior Unit Resident or Member not covered by the Association’s insurance must be made by and at the individual expense of the current Unit Owner. The repairs, restoration and reconstruction, must be completed as promptly as practicable and in a lawful and workmanlike manner. If the work is of a nature that would normally require approval by the Association, the Member must seek such approval, as provided for in these CC&Rs.

18.7 Special Assessment for Reconstruction. If the proceeds of insurance obtained by the Association are paid to any Mortgagee of a Unit and, because of such payment, the insurance proceeds are not made available to the Association as trustee, or otherwise, to effect any repair, reconstruction, or restoration of any damage or destruction to all or any portion of the Development as provided in these CC&Rs, the amount of such proceeds not made available must be assessed and charged to and against the Member or Members and his/her Unit as an Emergency Special Assessment. The Emergency Special Assessment must be made by written notification from the Board to the Member or Members against whom made.

18.8 Encroachment. If a Building is partially or totally destroyed and then rebuilt, Members agree that minor encroachments of the Common Area on Units or of Units on the Common Area or other Units are permitted, and that valid easements for the encroachments

exist. Such encroachments are not considered to be encumbrances either on the Units or the Common Area.

## **ARTICLE 19: CONDEMNATION**

19.1 Notice. Promptly upon learning of any potential condemnation or sale by eminent domain, the Board must notify all Members and First Mortgagees who have filed a written request for notice.

19.2 Payment for Common Area. When an action in eminent domain is brought to condemn all or any portion of the Common Areas, the Association must represent the Members in all proceedings, negotiations, or settlements. Awards for the acquisition of Common Area must be paid to the Board, as trustee, for deposit into the Association's Reserves unless a majority of the total voting power of the Association elects to distribute the award among the Members per their Percentage Interest.

19.3 Payment for Unit. When an action in eminent domain is brought to condemn all or any portion of one or more Units, the award made for such taking must be payable to the respective Owners of the Units, subject to (i) the rights of Mortgagees holding Mortgages covering such Units; and (ii) all unpaid Assessments of each Member, taken together with interest and other pending charges. The Board of Directors has no responsibility for restoring a Member's personal or real property taken as a result of condemnation.

19.4 Revision of Documents. When any part of the Development is condemned, the Board must, as soon as practical, prepare, file, or record a revised subdivision map, Condominium Plan, or other documents, reports, schedules, or exhibits necessary to show the changed or altered status of the Development.

19.5 Status of Membership. If a Unit is taken in condemnation, the Unit ceases to be part of the Development, the Member ceases to be a Member of the Association, and the Percentage Interest in Common Area appurtenant to that Unit automatically become vested in the remaining Members, in proportion to their respective Percentage Interests in the Common Area.

## **ARTICLE 20: MISCELLANEOUS**

20.1 Notice of Airport in Vicinity. This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are

associated with the property before you complete your purchase and determine whether they are acceptable to you.

20.2 Notice of Railroad in Vicinity. This property is presently located adjacent to a railroad. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider whether railroad annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

20.3 Amendment. Amendment or restatement of these CC&Rs is permitted by obtaining the affirmative vote of Members comprising more than fifty percent (50%) of the Voting Power of the Association or as provided for by law, provided that the percentage of the Voting Power necessary to amend a specific provision is not less than the percentage of affirmative votes prescribed for action to be taken under that provision. Any amendment enacted in compliance with this provision becomes effective when recorded with the Offices of all County Recorders where the Development is situated.

20.4 Lender Approval. If a First Mortgagee is entitled, by the terms of these CC&Rs, to consent to, approve, disapprove, or object to a proposed amendment to or restatement of the CC&Rs, but fails to return a ballot or other form providing written disapproval or objection within 30 days of receipt, such First Mortgagee is deemed to have consented to and approved the proposed amendment or restatement, provided the ballot, or other form permitting written disapproval or objection, was delivered by certified or registered mail with return receipt requested and the delivery signed for by a representative of the First Mortgagee.

20.5 Amendment to Conform to Statute. If a provision in these CC&Rs contradicts current law, according to a written opinion of the Association's legal counsel, on the unanimous approval of the Board and without the approval of the Members, the Board is authorized to amend that provision, but only to the extent necessary to render the provision compliant with applicable law. A resolution explaining the need for the change must be adopted by the Board in an open meeting and recorded in the minutes.

20.6 Term of CC&Rs. These CC&Rs continue in full force and effect for a term of sixty (60) years from the date of their recordation ("Renewal Date"), after which time they are automatically extended for successive periods of twenty (20) years. The provisions of this Article are also subject to any prohibitions against partitioning the Common Area that might apply. These CC&Rs may be terminated if, within six (6) months before the Renewal Date of any twenty-year extension period, (i) at least seventy-five percent (75%) of the Members and seventy-five percent (75%) of the First Mortgagees approve by secret ballot circulated by the Association via its Board to terminate these CC&Rs, and (ii) an appropriate governmental agency has agreed in writing to assume the Association's Common Area maintenance, repair, and replacement obligations, and (iii) certification of the membership's and First Mortgagee's



approval to terminate and the agency's agreement to assume maintenance duties are recorded with the Office of County Recorder of Santa Barbara County, and (iv) the Association's contractual and other legal obligations are wound up, and (v) all required corporate filings, tax returns, and notices are filed with appropriate agencies to effectuate dissolution of the Association/corporation, and (vi) insurance tail coverage is purchased to cover any potential liability the Association may have until all applicable statutes of limitations have run their course.

20.7 Attorneys' Fees. In a lawsuit by the Association seeking the enforcement of the Governing Documents against a Member or to determine the rights or duties of the Member under the Governing Documents, the prevailing party may be awarded reasonable attorneys' fees and costs permitted by law.

20.8 Notices. Any communication or notice of any kind permitted or required to be delivered according to the Association's Governing Documents or the Davis-Stirling Act must be in writing. Such delivery must be made as follows:

a. *To the Association:*

- i. *Manner of Delivery.* By electronic delivery (email, facsimile, or other electronic means), by personal delivery (for which a receipt will be provided), or by mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center). This provision consents to allow personal delivery and electronic delivery to the Association. However, the Association may withdraw such consent, in writing, as to any Member whose electronic communications or personal visits are abusive or harassing, and limit communications and notices from such Member to mail only.
- ii. *Recipient of Delivery.* The person designated in the Association's annual policy statement to receive documents on behalf of the Association. If no person has been designated to receive documents, the document must be delivered to the President or Secretary of the Association.

b. *To the Members:*

- i. *Manner of Delivery.* For communications and notices subject to the Davis-Stirling Act, the manner required therein includes individual notice or delivery, general notice or delivery, electronic delivery (with consent) or otherwise. For other communications and notices not subject to the Davis-Stirling Act, by electronic delivery (email, facsimile, or other electronic means), by personal delivery, or by mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center).

- ii. *Location of Delivery by Mail or Email.* Delivery must be made according To the Member's preferred delivery method, or if no method is selected, as otherwise determined by Civil Code §4041, and as further provided for in Civil Code §4040 (individual delivery) and Civil Code §4045 (general delivery).
- c. *When Notice Deemed Delivered.*
  - i. *By Mail.* If a document is delivered by mail, delivery is deemed complete on deposit into the United States mail.
  - ii. *By Electronic Means.* If a document is delivered by electronic means, delivery is complete at transmission.

20.9 Headings. The headings contained in these CC&Rs are for convenience of reference and are not a part of and are not intended to govern, limit, or aid in constructing any term or provision of these CC&Rs.

20.10 Liberal Construction. The provisions of the Governing Documents must be liberally construed to effectuate their purpose of creating a uniform plan for the use, operation and maintenance of the Development.

20.11 Number and Gender. Regardless of the number and gender specifically used, words used herein shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

20.12 Severability. The provisions of these CC&Rs and any other Governing Document are deemed independent and severable, and the invalidity, partial invalidity, or unenforceability of any one provision does not affect the validity or enforceability of any other provision.

20.13 No Public Rights. Nothing contained in these CC&Rs is a gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

20.14 Successor Association. If the Association, as a corporate entity, is dissolved, a nonprofit, unincorporated association, without further action, automatically succeeds to all the rights and duties of the corporation. The affairs of the unincorporated association will continue to be governed by these CC&Rs, the Bylaws, Architectural Standards, and the Rules and Regulations, as well as any applicable law.

20.15 Conflicting Provisions. When a conflict exists between these CC&Rs and the Articles or the Bylaws, these CC&Rs control. When a conflict exists between the Articles and the Bylaws, the Articles control. When there is a conflict between the Maintenance

Responsibility Chart and any other portions of the CC&Rs (Articles 1 through 20, inclusive), the other portions of the CC&Rs (Articles 1 through 20, inclusive) control.

DRAFT

## **CERTIFICATION**

WE CERTIFY this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ that this First Restated Declaration of Covenants, Conditions and Restrictions has been duly approved and adopted by the affirmative vote of fifty-percent (50%) of the voting power of Eucalyptus Grove Homeowners Association.

We further certify that the prior written approval was obtained, or deemed given, by at least fifty-one percent (51%) of the holders of all Senior Secured Lenders for the following provisions of this First Restated Declaration of Covenants, Conditions and Restrictions: Section 2.3, Article 14, Article 16 and Section 20.3.

EUCALYPTUS GROVE HOMEOWNERS ASSOCIATION

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

**SIGNATURES MUST BE NOTARIZED**

REPLACE THIS PAGE WITH NOTARY ACKNOWLEDGEMENT

DRAFT

## EXHIBIT A MAINTENANCE RESPONSIBILITY CHART

This Maintenance Responsibility Chart attached hereto, incorporated by reference and made a part of the CC&Rs to which it is attached. If there is a conflict between this Chart and any provision of the CC&Rs, the CC&Rs shall control.

The following is a listing of the items within the Development for which Members and the Association are responsible for the routine maintenance, repair and replacement duty under the CC&Rs and may not apply to situations where damage is caused by the negligence or willful misconduct of any party.

Unless specifically provided otherwise in the Chart, the items below include the responsibility to maintain, repair, replace and paint (if painting is applicable).

This Chart is provided for convenience as to the general determination of responsibility for the maintenance, repair and replacement of various components of the Development. The physical boundaries of the various components of the Development, such as the Unit, Common Area, and Exclusive Common Area, as defined under the Condominium Plan, are not determinative of the responsibility for routine maintenance, repair and replacement.

In certain situations, the Association's insurance coverage may provide for the repair/replacement of components that are designated as the Members' maintenance responsibility under the CC&Rs, including this Chart. These circumstances shall not be deemed or construed as modifying the routine maintenance, repair and replacement duties set forth herein.

<b>COMPONENT(S)</b>  O = Owner, A = Association, N/A = Not Applicable	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
<b>WALLS, CEILINGS AND FLOORS</b>				
Attics, attic space and attic insulation, except any Heater Area	A	A	A	N/A
Ceiling surfaces, including, but not limited to, "popcorn" texturing and remediation of any asbestos-containing materials (ACM) in texturing	O	O	O	O

<b>COMPONENT(S)</b> <b>O = Owner, A = Association, N/A = Not Applicable</b>	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
Floor coverings – interior - carpeting, hardwood, tile, marble, granite, vinyl, etc.	O	O	O	O
Floors - unfinished slab and sub-floors	A	A	A	A
Front entry landings	O	A	A	A
Heater Area	O	O	O	N/A
Non-bearing interior walls/drywall/insulation and partitions such as bedroom and dining room walls	O	O	O	O
Perimeter walls of Unit – exterior surfaces/stucco/siding	A	A	A	A
Perimeter walls of Unit– exterior trim	A	A	A	A
Perimeter walls surrounding the Unit – including bearing walls, studs, frames and other structural items	A	A	A	A
Perimeter wall surfaces and coverings - interior paint, wallpaper, paneling, mirrors, etc.	O	O	O	O
<b>DOORS AND WINDOWS</b>				
Doorbell – bell and interior components	O	O	O	O
Doorbell – button/switch and exterior components	O	O	O	O
Entry door – all components	O	O	O	N/A
Heater Area door	O	O	O	O
Interior doors - bedrooms, closets, bathrooms, etc.	O	O	O	O
Interior doors - frames	O	O	O	O
Patio and Balcony doors, screens, flashing, waterproofing, framing, painting, staining, weather-stripping, tracks, glass, hardware, rollers, mullions (if any)	O	O	O	O

<b>COMPONENT(S)</b> <b>O = Owner, A = Association, N/A = Not Applicable</b>	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
Screen door and frame	O	O	O	O
Skylights – flashing, waterproofing, framing, glass, plastic	O	O	O	O
Windows-all glass and components, except non-glass exterior surfaces.	O	O	O	O
<b>ELECTRICAL AND ELECTRICAL FIXTURES</b>				
Electrical panel and circuit breakers located inside Unit	O	O	O	N/A
Electrical wiring serving a single Unit, wherever located	O	O	O	N/A
Electrical wiring serving Common Area facilities, such as lighting	A	A	A	N/A
Electrical wiring serving multiple Units, wherever located	A	A	A	N/A
Light fixtures in the Common Area	A	A	A	A
Light fixtures inside Unit	O	O	O	O
Light switches, electrical outlets and wall plates– interior and exterior serving a single Unit.	O	O	O	O
Telephone lines, cable television, computer lines, DSL cables, exclusively serving a single Unit	O	O	O	N/A
<b>PLUMBING AND PLUMBING FIXTURES</b>				
Dishwasher hoses and drains, and water and ice maker lines running to refrigerators and freezers	O	O	O	N/A



<b>COMPONENT(S)</b> <b>O = Owner, A = Association, N/A = Not Applicable</b>	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
Drains, sewer lines, and water supply lines (hot or cold) serving a single Unit, wherever located, including preventing and repairing clogs in such drains and lines	O	O	O	N/A
Drains, sewer lines, and water supply lines (hot or cold) serving multiple Units, wherever located, including preventing and repairing clogs in such drains and lines	A	A	A	N/A
Drains, sewer lines, and water supply lines (hot or cold) serving Common Area facilities, including preventing and repairing clogs in such drains and lines	A	A	A	N/A
Plumbing fixtures and components serving a single Unit, including, without limitation, sinks, faucets, garbage disposals, bathtubs, showers, shower valves, shower pans, overflow and drain assemblies, toilets, toilet tank components, toilet flanges, toilet wax rings, and angle stops, wherever located, including preventing and repairing leaks and clogs involving such fixtures and components	O	O	O	N/A
Water heaters serving a single Unit	O	O	O	N/A
Water shut-off valve serving a single Unit	O	O	O	N/A
Water shut-off valve serving multiple Units	A	A	A	N/A
Water Softeners serving a single Unit	O	O	O	N/A
<b>NATURAL GAS AND NATURAL GAS FIXTURES</b>				
Natural gas lines and valves located inside a Unit and connected to appliances, including, but not limited to, gas stoves, gas ovens, gas dryers and water heaters	O	O	O	N/A
Natural gas lines and valves connected to fireplaces	O	O	O	N/A

<b>COMPONENT(S)</b> <b>O = Owner, A = Association, N/A = Not Applicable</b>	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
Natural gas lines and valves connected to forced air heating units	O	O	O	N/A
Natural gas lines serving a single Unit, wherever located, including preventing leaking from such lines	O	O	O	N/A
Natural gas lines serving multiple Units located, including preventing leaking from such lines	A	A	A	N/A
Natural gas lines serving Common Area facilities, including preventing leaking from such lines	A	A	A	N/A
<b>OTHER COMPONENTS AND APPLIANCES</b>				
Antennas and Satellite Dishes	O	O	O	N/A
Heating ducts	O	O	O	N/A
Environmental and temperature control systems, including, without limitation, heat exchangers, drip pans, valves, thermostats, compressors, condensers, condenser lines, control equipment, radiant heating systems, electric heaters, ceiling, fans, forced air units and exhaust fans serving a single Unit, including all related sealing, waterproofing, and preventing and repairing leaking from and moisture accumulation on such components	O	O	O	N/A
Fireplace chimney cap and exterior structure (i.e., stucco, bricks)	A	A	A	A
Fireplace mantel, firebox, flue, chimney and all interior surfaces	O	O	O	O
Grout or caulk around sinks, faucets, countertops, showers	O	O	O	O

<b>COMPONENT(S)</b> <b>O = Owner, A = Association, N/A = Not Applicable</b>	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
Kitchen appliances (dishwashers, refrigerators, microwave ovens, stoves, ovens, range hoods and fan, etc.)	O	O	O	N/A
Storage areas serving a single Unit	O	O	O	O
Washer/dryer, laundry enclosures and other areas accessible from a Patio or Balcony and door	O	O	O	O
Vanities, cabinets and countertops	O	O	O	O
<b>EXTERIOR OBLIGATIONS</b>				
Building exteriors	A	A	A	A
Carports	A	A	A	A
Drainage systems - exterior	A	A	A	A
Entry gates to Development	A	A	A	A
Fences and walls – perimeter	A	A	A	A
Fences – Common Area	A	A	A	A
Gutters and downspouts	A	A	A	A
Hose bibs – Common Area	A	A	A	A
Landscaping and irrigation system – Common Area	A	A	A	A
Landscaping and vegetation – Patios	O	O	O	N/A
Mailboxes – Common Area	A	A	A	A
Patio and Balcony drains	A	A	A	N/A
Patio and Balcony exterior surfaces and structural components	A	A	A	A

<b>COMPONENT(S)</b> <b>O = Owner, A = Association, N/A = Not Applicable</b>	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
Patio and Balcony light fixtures	O	O	O	O
Patio and Balcony railings	O	A	A	A
Patio slabs	O	A	A	N/A
Patio and Balcony surfaces	O	O	O	A
Patio and Balcony waterproofing	O	O	O	N/A
Parking Spaces – concrete, asphalt surfaces	A	A	A	A
Railings - exterior	A	A	A	A
Recreational facilities including the swimming pool, spa, pool house, exercise room, sauna	A	A	A	A
Roof – all components	A	A	A	A
Sidewalks – Common Area	A	A	A	A
<b>MISCELLANEOUS OBLIGATIONS</b>				
Improvements or alterations to a Unit or Exclusive Use Common Area made by anyone other than the Association	O	O	O	O
Spraying/eradication of pests in Common Area interior or exterior	A	N/A	N/A	N/A
Spraying/eradication of pests in the Unit interior (e.g., ants, bees, bedbugs, fleas, roaches, rodents, etc.)	O	N/A	N/A	N/A
Termite damage to Common Areas	A	A	A	A

<b>COMPONENT(S)</b> <b>O = Owner, A = Association, N/A = Not Applicable</b>	<b>Maintain Clean/ Attractive Condition</b>	<b>Repair</b>	<b>Replace</b>	<b>Paint</b>
Termite damage to Unit	O	O	O	O
Termite fumigation by tenting (both Common Area and Units)	A	N/A	N/A	N/A
Termite treatment in Common Areas	A	N/A	N/A	N/A
Termite treatment inside Units (except fumigation by tenting)	O	N/A	N/A	N/A
Utility Lines (as defined in CC&Rs) serving a single Unit	O	O	O	N/A
Utility Lines (as defined in CC&Rs) serving multiple Units	A	A	A	N/A

This list provides comments, edits and suggested changes to the 1<sup>st</sup> draft text of the Grove CC&R pdf document. Much of this added or changed text came from a previous 2015 Adam-Sterling draft CC&R document for another HOA. In general, only Sections requiring a change or added text are listed. Text highlighted in yellow is suggested text to convey the intent of a proposed modification or addition to the Section or Article, which we understand is still subject to the requirements and limitations of the CA Civil Code, etc. Where appropriate, we also provide (*in italics*) the intent or added explanation if it is not clear what the possible needed changes or additions to the text might be.

These changes were made.

#### **Incorrect assumptions that need to be addressed:**

1. Air conditioning is referenced as a standard component of units (1.21, 1.52, 3.6f, etc.). The 1<sup>st</sup> draft mentions 'air conditioning' 14 times. This tends to convey a false impression that air conditioning equipment, ducts, and utility lines are a common, standard feature of the complex. Air conditioning is only present as an expressly approved Unit Improvement for a medical necessity. In contrast, the original CC&R's mention 'air conditioning' only twice and this was to a) prohibit installation unless approved by the Board, and b) exclude such Unit improvements from any HOA responsibility. We need to rewrite various provisions and/or delete '*and air conditioning*', so it is not commonly mentioned (except as restricted under Section 5.4), as any related 'air conditioning' elements would be covered by the rules governing Unit Improvements, or under similar phrases like "*and other similar lines, pipes, cables, ducts, etc.*". See Definition 1.52. The problem is highlighted with 3.6f and/or 3.6g.

These changes were made.

2. Parking and storage of vehicles are assumed to be equivalent. For us, this is not correct. Storage of unregistered or non-operational vehicles is generally not permitted. See Definition 1.36.

Security systems and intercoms should be removed throughout the document.

3. Continued reference to 'security systems' or intercoms (e.g., 3.6g, 4.12, etc.). These do not exist. We do have access control systems to the pool area and exercise room, as well as the entry gate system, but these should not be referred to as 'security systems'.

See revisions to Section 4.3e

4. The 1<sup>st</sup> draft contains a paragraph on HOA responsibility to maintain the Common Areas (4.5). The expected paragraph to maintain Buildings and Other Improvements in this section seems to be missing.

See my response to this in the pages below.

5. We still prefer something like our original Occupancy Restriction for provision 7.13. We understand that this *may* be "considered discriminatory". However, this restriction is: a) the original provision that has been in force since 1985 and so is acceptable to all current Owners; b) has not been contested during this 35+ year period; and c) the law provides no minimum room size for bedrooms so there is no guarantee that any bedroom can legitimately or adequately house up to 3 adults (i.e., 2 persons per bedroom plus one). If it has never been contested, why should we voluntarily acquiesce to a less restrictive provision? It should be up to an Owner who knowingly wants to violate this existing restriction to contest it, and if he or she succeeds, it will then be changed.

***Given the current pandemic, it can also be strongly argued that the original restriction is reasonable for both health and safety reasons,*** as anytime a Resident who becomes infected with a highly contagious disease must presumably self-quarantine in a single bedroom. This would result (with your alternative text) in up to 6 remaining adults confined to two bedrooms for a 3-bedroom unit, or 4 adults to one bedroom for a 2-bedroom unit, or 2 adults to the living room for a 1-bedroom unit. The Grove is also in a university town. Your text would theoretically allow up to 7 adult college students to occupy a 3-bedroom unit, or 5 adults in a 2-bedroom unit, or 3 adults in a 1-bedroom unit, which is not likely what most Owners want to allow.

## INTRODUCTORY DECLARATIONS:

Shouldn't this be:

...condominium development known as "Eucalyptus Grove Owners Association"?

No. See further discussion of this below

## ARTICLE 1: DEFINITIONS

Adding "only" is redundant on the one hand, and not technically true on the other. Balconies can also be accessed via a latter.

1.6 "Balcony" refers to a balcony which is attached to a Unit and accessible **only** through the Unit of which it is appurtenant.

City can only refer to the City of Goleta because that is the city the development is in, so this definition is not necessary.

1.10.1 "City" means the City of Goleta, the city in which the Property is located.

1.16 "Condominium Plan" collectively means the diagrammatic descriptions of the Development that identify the boundaries of Units, some or all of the Exclusive Use Common Areas and the Common Area, **as recorded in the Office of the County Recorder of Santa Barbara County and any amendments thereto.**

County can only refer to the County of Santa Barbara because that is the county the development is in. So this definition is not necessary.

1.16.1 "County" means the County of Santa Barbara, the County in which the Property is located.

1.19 "Development" means that certain residential common interest development known as "Eucalyptus Grove Owners Association" and located at 7602-7640 Hollister Avenue, Goleta, California.

The "Association" is a corporation made up of members and the Board. The Association's name is not the same as the property name. The property is probably referred to as either Eucalyptus Grove or Grove HOA.

1.21 "Exclusive Use Common Areas" means those portions of the Common Area, **as designated in the Condominium Plan**, which serve a single Unit, including but not limited to Balconies, Patios, Heater

Area, heating, ventilation and/or air conditioning, and Utility Lines, whether located inside or outside the boundaries of the Unit. Any Utility Line or portion thereof is deemed to "serve a single Unit" when its removal would interrupt service of only a single Unit.

Rules, restrictions, and limitations do not belong in the definitions, they must be stated in Article 3 maintenance responsibilities or Article 7 use restrictions.

**a. Limitations:** Front Door Steps, Landings, Mid-Landings that may be shared or not, but are otherwise accessible from the Common Area, generally remain subject to certain use and safety access limitations of the Common Areas, regardless if portions thereof may be designated as Exclusive Use Common Areas appurtenant to some but not all Units.

1.22 "Heater Area" refers to a specific exclusive appurtenant easement for the purpose of maintaining, servicing and replacing the furnace located above the interior ceiling of each Third Floor Unit. See Definition 1.51 ('Unit').

**The full definition of the easement should appear with the definition of 'Unit' (1.51) as that is where most people will expect to find Unit 'easements'.**

The easement is not relevant to this definition. In other words, the heating area is part of the building regardless of whether a members has a easement or not.

1.36 "Parking Areas" includes those portions of the Development used for the parking of vehicles. **Only authorized, registered, licensed and operational vehicles can be parked. Unless expressly authorized by the Board, storage of unregistered or non-operational vehicles is not permitted.**

This definition refers to a portion of the development. The highlighted language is a rule, condition or restriction and does not belong in this definition.

I revised this section, but the definition of the Unit comes from the Condo Plan and cannot be changed discretionarily.

#### 1.51 "Unit"

a. *Boundaries.* The boundaries of each Unit are the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows, and doors, together with any exterior storage, laundry or water heater enclosures appurtenant to the Unit, and utility lines for which the Unit has exclusive use.

c. *Exclusions.* The following are not part of an individual Unit and are deemed to be part of the Common Area: Any bearing walls, columns, horizontal supports, vertical supports, floors, ceilings, foundations, patio walls, steps and railing, exterior lighting fixtures, pipes, ducts, flues chutes, conduits, wires, equipment, mechanical devices, security system components, and Utility Lines that service more than one Unit, except for the outlets thereof when located within the Unit and that either (a) are located within any Unit or (b) pass through any portion of any Unit.

It doesn't make sense to include this easement here with all other easements are stated in Article 2

d. *Easements.* The easements for patios or balconies are shown and defined in the Condominium Plan and shall be for the exclusive use and enjoyment of the Owner of the Unit to which it is appurtenant for all purposes not inconsistent with the provisions, restrictions and limitations contained in this Declaration and in the Bylaws, subject, however, to the right of the Association to service, maintain, landscape and otherwise care for the Common Area. In addition, each third floor Unit has an exclusive appurtenant easement over the portion of the Common Area located immediately above the interior ceiling of the Unit for the purpose of maintaining, servicing and replacing the furnace which serves the Unit. This easement is shown and defined in the Condominium Plan and shall be for the exclusive use and enjoyment of the Owner of the Unit to which it is appurtenant for the limited purposes set forth herein subject to the right of the Association to service, maintain and otherwise care for the Common Area.

This definition not consistent with the structure and organization of these restated CC&Rs, so I can't add it.

1.51.1. "Unit improvements" means those improvements, changes, modifications, or alterations to a Unit that are different from the original, as-built Unit specifications.

This definition not consistent with the structure and organization of these restated CC&Rs. Also, "Improvement" has its own definition already, so adding this will confuse the term.

1.52 "Utility Lines" means sewer lines, storm drains, water pipes, electricity lines, gas lines, telephone lines or cables, television cables, satellite dish cables, heating and air conditioning conduits, heating and air conditioning ducts, heating and air conditioning flues, fiber optic cables, data lines, community security systems, and other similar lines, pipes, cables, ducts, flues, and conduit pipes.

## ARTICLE 2: MEMBERSHIP RIGHTS AND OBLIGATIONS

2.7 **Minor Encroachments or** Encroachment Easement: Members agree that minor encroachments of the Common Area on Units, or of Units on the Common Area, or on other Units are permitted and that valid easements for the encroachments may exist. Such minor encroachments are not encumbrances on either the Units or the Common Area. However, in no event shall a valid easement or right of use exist in favor of an Owner or a Unit if the encroachment occurred due to willful misconduct of the Owner, or resulted from the Owner's violation of or noncompliance with any provision of this Declaration, or other Governing Document.

## ARTICLE 3: MEMBERSHIP OBLIGATIONS

3.4 **Obligation to Provide Telephone Number.** Members and Tenants must provide the Association with the current telephone numbers at which they can be reached in an emergency. To facilitate non-



emergency communication, Members and Tenants shall also provide the Association with valid email addresses.

This is inconsistent with the law. See Civil Code § 4041(a) which gives the members the option to provide their email address to the Association.

3.6 Duty to Maintain, Repair, and Replace. A Maintenance Responsibility Chart is attached as Exhibit "A" to these CC&Rs. Except for those duties specifically assigned to the Association by these CC&Rs, Members must, at their sole expense, maintain and repair their Units and maintain, repair and replace the equipment, appliances and fixtures therein, maintain, repair, and replace improvements to their Units, as well as Exclusive Use Common Areas servicing their Units, and any utility lines for which the Unit has exclusive use.

We don't recommend this change. It is unnecessary because Members are responsible for everything within the boundaries of their unit no matter if that is equipment, appliances, fixtures, installations, utility lines, outlets, upgrades, mechanical devices and equipment, internal or portable A/Cs, etc. Specifying certain components tends to create loopholes.

f. **Heating and Air Conditioning.** All mechanical equipment, heating and ~~portable~~ internal air conditioning equipment, heat exchangers, drip pans, valves, thermostats, compressors, control equipment, and any other mechanical equipment exclusively servicing the Unit. Members are responsible for any damage to the Common Areas caused by their air conditioning units.

**Again, this provision is worded such that Air Conditioning is assumed to be a common component of all Units. The requirement to maintain, repair & replace air conditioning equipment should be covered as a Unit Improvement. However, this provision can and should be reworded and/or expanded, or broken out as provision 3.6 g(?) to include:**

g. **External Air Conditioning Units [and Components]:** Only air conditioning equipment expressly approved by the Board for a medical necessity may be installed and operated exterior to the Unit. This includes window air conditioners, or compressors and related lines and equipment. As a Unit improvement, Members are solely responsible for maintaining, repairing, or replacing any and all air conditioning equipment internal or, if authorized, external to the Unit, and related drip pans, valves, thermostats, compressors, and control equipment, as well as any damage to the Common Areas caused by their air conditioning units.

Adding this is confusing since we took air conditioning out everywhere else in the document.

g. **Electrical, Telephone, ~~Security~~ Internet/Data and Cable.** All telephones, telephone lines, internet/data lines, fiber optic lines, cable lines, electrical wiring, light fixtures, electrical outlets, circuit breakers, and switches, locks, and other equipment or utility lines exclusively servicing a single Unit.

internet and data lines includes fiber optic lines; so fiber optic lines does not need to be called out.

h. **Plumbing and Gas.** All plumbing equipment, including plumbing fixtures, toilets, faucets, bathtubs, tub and shower valves, shower pans, drain lines, sewer lines, water lines, angle stops, garbage disposals, water heaters, etc., and any exterior water heater enclosures, which exclusively service the Unit. All gas lines exclusively servicing the Unit. The exception is replacement of structural plumbing that may exist beneath the building slab foundation.

i. **Washers and Dryers.** All plumbing, ducts, Utility Lines and any other equipment or utility lines exclusively service a Unit's washing machine and dryers, including lines, vents, and exhaust fans.

The water heater enclosures if not part of plumbing and gas. Also, if the water heater storage closet is on the patio or balcony, then maintenance obligations for it belong in the Patios and Balconies article.

l. **Fireplaces.** Fireplaces appurtenant to Units, including fireplace mantles, fireboxes, and flues are the Unit Owner's responsibility to maintain, repair, and replace. The chimney and chimney cap are the Association's responsibility to maintain, repair, and replace. ~~Members must have their flues cleaned on a regular basis and arrange with the Association for roof access. If the Association retains a chimney sweep to clean all flues, Members with fireplaces must cooperate with the cleaning project and reimburse the Association for their portion of the costs.~~ **[All fireplaces are operated with only natural**

**gas, no wood burning. It is our understanding that such fireplaces and flues do not require cleaning.]**

From time to time, the Association may inspect fireboxes in Units. If it is determined that a Member's firebox needs repair or replacement, the Member must immediately cease using the firebox and have it repaired or replaced at the Unit Owner's expense or eliminated altogether (and walled over) so it cannot be used.

Even if you are told they don't require cleaning, it is better to have the obligations stated in this section just in case an issues comes up.

o. Skylights. **As a Unit Improvement requiring prior approval from the Board for installation**, Members must maintain, repair, and replace any skylights that benefit their Units.

The fact that skylights require Board approval does not belong in this section. Also Article 5 already states board is approval for any exterior modifications and installation of a skylight is an exterior modification and a modification of the common area (roof).

#### ARTICLE 4: DUTIES OF THE ASSOCIATION

4.2 Entry Gates. Vehicular access to the development is restricted by entry gates located at the entrance on Hollister Avenue. These entry gates are part of the Common Area and the Association shall be responsible for their operation and maintenance. **In addition, the Association shall periodically review the effect of the gates on traffic circulation. In the event that the operation of the gates is causing vehicles to stack up onto Hollister Avenue causing traffic circulation problems, the Association shall adjust the operation of the gates to eliminate the problem.** ***This text was left over from the original 1985 Grove CC&R's, but it is not and never has been a problem as the Association has its own exit lane off Hollister Avenue.***

This section has been removed and "entry gates" added to 4.3.

#### 4.5 ~~Maintain Common Areas~~ **and Buildings.**

The Buildings are part of the Common Area and not separate from it, so it doesn't make sense to add this to the title of this section.

a. *Common Areas*. Unless otherwise provided in these CC&Rs, including the Maintenance Responsibility Chart, the Association must maintain, repair, and replace the Common Areas including, but not limited to, swimming pool, spa, sauna, pool house, meeting room, exercise room, carports, car wash area, landscaping, public area and street lighting, private streets, sidewalks, parking areas, fences, perimeter walls, bridge, mail kiosks, trash enclosures, access control systems, and entry gates. This includes Utility Lines and fixtures that service these Common Areas.

***The following section on HOA responsibility to maintain buildings is completely missing.***

b. *Buildings and Other Improvements*: The Association shall be responsible for the repair and maintenance of the exteriors, foundation, structural members, roofs and common utility lines of the buildings containing each Unit and other exterior structures, and for the painting of the exterior of Unit buildings and other exterior structures. If an Owner does not maintain or repair his Unit as required, the Association will cause those repairs to be made at the Owners expense.

4.12 Utility and Cable Easements. The Association is hereby granted easements to enter into Units as is necessary or prudent to: (i) install, maintain, repair, and replace Common Area Utility Lines; and (ii) install, operate, maintain, repair, and replace transmission lines and other facilities for a community television system, high-speed internet lines, community security systems, or other similar systems; provided that any damage to a Member's Unit caused by such work must be repaired to original construction building standards at the Association's expense and in a timely fashion.

4.22 Vendor Contract Limitations: Except for the contracts listed below or as otherwise provided herein, the Association is prohibited from entering into any contract for services which binds the Association for a period for more than two (2) years one (1) year without Membership Approval. The term of any such service contract shall not exceed one (1) year and shall be terminable by either party

with or without cause and without payment of a termination fee upon not more than thirty (30) days' written notice.

a. *Public Utility Contract.* A contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission. However, the term of the contract must be for the shortest term for which the supplier will contract at the regulated rate.

b. *Fire and Burglary.* Contracts for terms up to three (3) years to lease or service burglar and/or fire alarm equipment or provide protective services.

c. *Bulk Cable Service.* Contracts for terms up to five (5) years to provide cable, internet, or satellite communications service.

d. *Insurance.* Contracts for insurance, if the policies do not exceed three (3) years duration.

e. *Reserve Studies.* Contracts for up to three (3) years for reserve studies.

**Not sure we want to allow contracts longer than 1 to 2 years for anything.**

Section 5.5.1, pg. 21 of the current CC&Rs includes the following restriction on the term of service contracts, "Except as otherwise provided herein, the term of any such service contract shall not exceed one (1) year and shall be terminable by either party with or without cause and without payment of a termination fee upon not more than thirty (30) days' written notice."

4.26 Right of Force Sale. If the health and safety of Homeowners are jeopardized by the condition of a Unit, how the unit is being maintained, or by illegal activities conducted from a Unit, and the Owner refuses to mitigate, correct or remedy these conditions, the Association has the right to take possession of the unit and sell it, provided the Board first seeks and wins approval for this forced judicial sale of the condominium.

The Association's rights to take enforcement action and its remedy's are stated in other Articles and are not appropriate here.

## ARTICLE 5: ARCHITECTURAL CONTROL

This section already says that unapproved renovations are prohibited, so adding the word "prohibited" as highlighted below is redundant and unnecessary

5.1 No Improvements or Alterations Without Approval. No Renovations by or on behalf of a Member in or to any Unit, Common Area, or Exclusive Use Common Area are permitted until plans and specifications have been submitted to and approved in writing by the Architectural Committee or Board. Any Renovations which are prohibited, unapproved, different from those approved by the Committee, or done without required governmental permits, are automatically deemed disapproved and the Member must promptly remove or correct the disapproved Renovations to comply with the Architectural Standards, the Architectural Committee's, or Board's approvals, and governmental requirements. This includes any such changes, modifications or improvements deemed a health, safety, or persistent nuisance to Residents.

We don't recommend adding language that qualifies a rules because this actually recreates loopholes. This change was not made.

5.4 No Exterior Installations. Installations of any kind, including but not limited to, trellises, awnings, electric lines, telephone lines, television antennas, satellite dishes (except as permitted by law), machines, filtration systems, or air conditioning units, on the exterior of the Unit or that protrude through the walls or the roof, or that are located in the Common Area, are prohibited except as authorized by the Architectural Committee or the Board.

### 5.7 Submission of Plans and Approval Process.

a. Plans and specifications in accordance with the Association's Governing Documents, describing the proposed Renovations, must be submitted to the Architectural Committee, Board or Property Manager by personal delivery, certified mail, or by email if receipt is acknowledged.

The statement "by email if receipt is acknowledged" is inconsistent with the law. See Civil Code §4035(b)

**5.19 No Right to Combine Units.** No Member is permitted to combine Units. Subject to the applicability of any law restricting the partitioning of Units and the Common Area, or Combining of Units is not permitted, without prior written Board approval. Once combined: (i) the Percentage Interest in the Common Area allotted to the combined Units will equal the sum of the Percentage Interests in the Common Area of each of the combined Units; (ii) the Assessments due and owing on the combined Units will equal the sum of the Assessments levied against each of the respective Units so combined; and (iii) the Owner of the combined Units will continue to have the same number of votes assigned to the Units before they were combined.

*If combining or dividing Units is not permitted, there should be no need to provide for what may happen if and when they ever are.*

**5.20 No Right to Divide Units.** Subject to the applicability of any law restricting the partitioning of Units and the Common Area, No Member is permitted to divide any Unit or change the number of bedrooms, or number of kitchen areas within a Unit. ; provided, however, that once two (2) or more Units have been combined, the Members owning such combined Units are permitted to restore them to their original dimensions and footprint only after receiving prior written Board approval.

## ARTICLE 6: BALCONIES AND PATIOS

I will make this change in draft 3.

We cannot add "professional standards" because there is no legal definition for "professional standards."

**6.1 Member Maintenance of Balconies and Patios.** Members must, at their sole expense, maintain, service and repair to professional standards their Balconies and Patios, including attached water heater, laundry or storage enclosures, as described below and as indicated on the Maintenance Responsibility Chart.

Members can refer to the Maintenance chart to see that they are responsible for these enclosures.

a. *Clean and Sanitary.* Members must keep their Balconies and Patios in a clean and sanitary condition. However, any water used in cleaning Balconies must not unreasonably spill over the edge of the Balcony onto other Units or the Common Area.

b. *Storage.* Balconies and Patios are not intended for storage. Only appropriate outdoor patio furniture is allowed on the patio or balcony area of the Units.

See Section 6.7 and 6.8, this doesn't belong under 6.1.

c. *Balcony/Patio Doors.* Members must maintain, repair, and replace their Balcony and Patio doors, and doors to any areas located off of the Balcony or Patio, including water heater, laundry or storage enclosure doors, door casings, thresholds, flashing, weather stripping, waterproofing, caulking, door guides, and any other related hardware and sealants.

It is not necessary to qualify "door." Also the Maintenance Chart provides these details.

d. *Floors and Surface Finishes.* Members must also maintain, repair, and replace surface finishes and waterproofing of the floors of the Balconies (and Patios where present).

It is unnecessary to state "were present" because either they have a patio floor or they don't. If they don't then this section doesn't apply.

**6.2 Association Maintenance of Balconies and Patios.** Excluding Member obligations provided for in this Article, the Association must maintain, repair and replace exterior surfaces, railings, and structural components of Balconies. The Association must also maintain, repair, and replace surface finishes and waterproofing of the floors of the Balconies and Patios. The Association shall also repair or replace as needed as-built surface finishes and waterproofing of the floors of the Balconies if the Balcony floor is repaired or replaced for structural reasons. Subject to the notice provisions in these CC&Rs under "Right of Entry," the Association has the right to enter upon any Balcony or Patio for maintenance, repair, or replacement for which the Association is responsible.

The Association is free to replace the surface finishes and waterproofing if it repairs or replaces the floors for structural reasons, but there is no reason why it should be required to.

**6.4 Balcony and Patio Alterations.** Members shall not have the right to paint or alter their Balconies or Patios without the prior written approval of the Board or Architectural Committee. No fences, awnings,

ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure except those that are installed in accordance with the original construction of the development, and any replacements thereof, without the authorization and approval of the Board.

See Section 6.9 which applies to any fences awnings, screens, sunshades and walls.

6.11 Balcony Weight Limitations and Storage. Members are not permitted to place unreasonable weight loads on any Balcony, or use Balconies and Patios for storage. The number and size of plants may be regulated by the Rules and Regulations. No storage containers, cabinets, or shelves, and no refrigerators, freezers, or other appliances are permitted on Balconies or Patios.

Partially revised, also see Section 6.7.

6.14 Lighting. Exterior lighting, if any, shall be of low intensity as defined by the applicable County or City Building and Zoning department.

Exterior lighting is something that should require architectural approval. So this is already covered in Article 5.

## ARTICLE 7: GENERAL RESTRICTIONS

We cannot acquiesce to keeping something that we know is illegal in the CC&Rs, but we can remove this entirely. The Board can adopt a rule, which is

7.13 Occupancy Restriction. [As per original, recorded CC&R's], No more than two (2) Persons may reside in any one-bedroom unit as permanent residents. No more than four (4) Persons may reside in any two-bedroom unit as permanent residents. The maximum occupancy for a three-bedroom unit shall be five (5) Persons as permanent residents. For purposes of this restriction, "reside" as permanent residents means to use or occupy any Unit for more than thirty (30) consecutive days and/or more than sixty (60) aggregate days, whether or not consecutive, in any one calendar year. The birth or adoption of a child that may otherwise exceed the occupancy limitation of the Unit is not considered a violation of this restriction. Maximum occupancy of any Unit shall not violate any other provision of this Declaration (e.g., Section 10.5), or other Governing Document, or impact of the otherwise quiet enjoyment of other Units. *Along with other remedies provided for in these CC&Rs, the Board may impose an occupancy surcharge per Person residing in a Unit in excess of the occupancy restriction until the violation is deemed corrected.* **Is this allowable?**

***IF the above provision is implemented as requested, or if the proposed less restrictive provision for maximum occupancy is adopted, then no grandfather clause is required since either there is no effective change or all Units would be already in compliance.***

Where the number of Persons residing in a Unit, as of the date these CC&Rs are recorded, exceeds the maximum number permitted in the this Section, the Persons then residing in the Unit ("Permitted Residents") are permitted to continue residing there; provided, however, any Permitted Residents who cease to reside in the Unit can remove this entirely and the Board can adopt a rule, which is much easier to amend if and exceeds the maximum permit when necessary.

We can't acquiesce to keeping something that we know is illegal in the CC&Rs, but we can remove this entirely and the Board can adopt a rule, which is much easier to amend if and exceeds the maximum permit when necessary.

7.15 Residential Use. Using a Unit, or permitting a Unit or any portion of it, to be occupied or used for any purpose other than a private residential dwelling is prohibited. Units must not be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other nonresidential purpose. Notwithstanding the foregoing, Residents may use a portion of their Unit as a home office, provided that (1) the primary use of the Unit remains as a Residence, (2) no business advertising or signage is used in connection with the home office use, (3) package deliveries are kept to a minimum, (4) the secondary commercial operation meets the requirements and approval defined by Article II of Chapter 35 of the Santa Barbara County Code, (5) no commercial permit is required by the City of Goleta for its operation, and (6) no customers, clients or patients visit the Unit. The Board may adopt additional Rules regarding the use of such home offices.

We do not recommend this change because (1) local laws change more frequently than your CC&Rs are updated (2) members have to comply with the law whether or not it is stated in your CC&Rs,



7.20 Smoking and Vaping. All smoking, vaping, and use of e-cigarettes is **generally** prohibited [everywhere] in the Development [where its use can affect other people], whether in **or near** Units, **buildings and common area facilities**, the Common Areas, or any Exclusive Use Common Area, **except within specific, outside designated Smoking Areas**. "Smoking" means, but is not limited to, any practice by which a substance, whether tobacco, marijuana or any other substance, is burned for the purpose of inhaling its smoke. "Vaping" means inhaling water vapor to obtain nicotine, cannabis or any other substance. "E-cigarette" means an electronic device that vaporizes liquid nicotine, cannabis or any other substance. **The Board may adopt additional Common Area restrictions concerning Smoking, Vaping, and E-cigarette use, consistent with these CC&Rs.**

Buildings and facilities are Common Area, so no need to call them out specifically. The last sentence was added.

~~7.22 Spas, Hot Tubs and Saunas. No spa, hot tub, or sauna may be installed in any Unit without the written approval of the Architectural Committee or the Board. Such installations must conform to the Association's Architectural Standards. Spas, hot tubs, and saunas are prohibited on Patios and Balconies.~~

Will remove the crossed out language for Draft 3.

7.23 Storage, Laundry and Water Heater Enclosures. **Storage, laundry, and water heater enclosure areas** may only be used as provided for in the Rules and Regulations. Under no circumstances may explosives, fireworks, or highly flammable or highly corrosive materials be stored in such areas. Members must keep their storage areas, laundry areas and water heater areas hazard-free at all times. Members must supply their own locks to secure their possessions and are responsible for insuring stored items against loss. **Washer and dryer appliances must fit within the laundry enclosure provided such that exterior enclosure doors will fully and properly close.**

~~7.28 Heater Area Modifications. Modifications to the Heater Areas are prohibited.~~ Replaced with:

7.28 Third-Floor Unit Easements. The exclusive appurtenant easement in third-floor Units for the purposes of servicing the heater area **requires that regular serviceable access be maintained.** As such, this easement above the interior ceiling **qualifies the purpose of this rule since the members have to approve it.**

The requested revisions states the same thing as "modifications are prohibited" just in a more complex way. Also, the CC&Rs do not need to qualify the purpose of this rule since the members have to approve it.

#### ~~ARTICLE 8: LEASING AND OWNERSHIP LIMITATIONS~~

Prefer

#### ~~ARTICLE 8: OWNER OCCUPANCY AND LEASING LIMITATIONS~~

The laws related to rental and lease restrictions changed in 2021. So, most of what is stated in Draft 2 is new to the document.

*We believe inclusion of an introductory declaration to this article documenting the historical precedent in the Governing Documents for some type of Owner Occupancy and Lease Limitation Requirements would be useful, helpful, and instructive. This way, the restated CC&R provisions of Article 8 can be perceived as a continuation of this historical precedent. In addition, the Board wishes to adopt added provisions for Rental Cap, Room Rental and a modified Minimum Lease Requirement of one (1) year for entire Units (No Owner Occupancy), but three (3) months for room rentals (with Owner Occupancy). This distinction between requirements with owner occupancy versus non-owner occupancy would seem to be facilitated if a provision requiring General Owner Occupancy is expressed and defined – even if this is only somewhat aspirational. This declaration could be something along the lines of:*

**General Owner Occupancy. In furtherance of the plan for the ownership, improvement and use of the Eucalyptus Grove; to enhance the value, desirability and attractiveness of the Development for**

the mutual benefit of the Members; and to facilitate insurance coverage for the Development, effective January 1st, 1990, an amendment to the Governing Documents was adopted and recorded by the Association to require, as defined or otherwise provided for in the amendment, that **"each Unit must have in residence at least one (1) owner of record"**. Owing to difficulties with legal enforcement and compliance with the amendment as originally adopted, the Association hereby replaces and restates the intent of that amendment with the following Owner Occupancy and Lease Limitation provisions:

8.2 Rental Cap. Only 30% of entire Units in the complex (or a maximum of 54 Units) may be rented at any one time.

25% of the most restrictive allowed by law. If you want to change it to 30%, let me know.

*This implies a target Owner Occupancy rate of at least 70% should be maintained as much as possible given the complexities of grandfathered Units that are still free to lease unrestricted.*

8.3 Room Rental. Each Owner may rent (either for consideration or for no consideration) under a written lease or other agreement one (1) bedroom, or up to two (2) bedrooms in a 3-bedroom unit, to one (1) Tenant or Lessee, and said lease shall not require the prior approval of the Board; provided, however, that no Owner may have more than one (1) such lease or other agreement with a Tenant in effect at any time, and no assignments or subleases are permitted. No Member shall lease a room in their Unit for an initial term of less than three (3) months. If the Tenant vacates the room after less than three (3) months, the Member may not re-lease the room in the Unit until the expiration of three (3) months from the date the Lessee moved into the room or rooms unless the Member applies for and receives a hardship exception from the Board. No Owner who leases a bedroom of their Unit to a Tenant may have more than the maximum number of persons residing in the Unit as stated in Section 7.13 (Occupancy limitation) of these CC&Rs. Each Owner who leases a bedroom of their Unit must be in residence at least ninety (90) aggregate days out of each year in which the lease agreement regarding the Unit is in effect.

8.4 No Transient Use. Units may not be rented for transient, hotel, fractional or similar purposes or any time-sharing arrangement under which occupancy rights for specific periods are distributed between two or more persons, or that require any short-term vacation rental permit from the City of Goleta to operate. No Unit may be advertised with Airbnb, VRBO, Flipkey, Homeaway, or by any other means, as being available for rent or lease for a period of less than three (3) months or in a manner that would suggest or imply the Unit or any portion thereof was available for rent or lease for a period of less than three (3) months.

8.5 No Time Sharing. Units may not be divided, used or conveyed on a time increment basis (commonly referred to as "time sharing"). The term "time sharing" is defined to include any agreement, plan, program or arrangement under which the right to use, occupy or possess a Unit or any portion of a Unit rotates among various persons, either corporate, partnership, individual or otherwise, on a periodically recurring basis.

8.6 Lease Requirements. Except for room rental with Owner Occupancy as provided for in Section 8.3, no Member is permitted to lease less than the entire Unit. The initial term of any lease must be at least twelve (12) months. If a Tenant vacates after less than twelve (12) months, the Member may not re-lease the Unit until the expiration of twelve (12) months from the date the Tenant moved into the Unit, unless the Member applies for and receives a hardship exception from the Board.

**8.7 Lease Addendum.** Any lease or rental agreement between Member and Tenant must be in writing. In addition, **except for lease agreements covered by Section 8.3 (Room Rental),** Member, Tenant, and the Association must execute a "Lease Addendum" supplied by the Association. For a lease, Member and Tenant must agree, at a minimum, to the following terms: (i) the lease is for the entire Unit; (ii) Member transfers any right to use Common Area facilities to the Tenant; (iii) no assignments or subleases are permitted; (iv) the lease is for not less than **twelve (12) months** and Member cannot re-lease the Unit if Tenant moves out before Tenant's **twelve (12)** month occupancy has been completed unless the Member applies for and receives a hardship exception from the Board; (v) Tenant agrees to comply with the Association's Governing Documents and be subject to the same disciplinary procedures and fines as Members; (vi) Member assigns rents to the Association if the Member becomes sixty (60) days delinquent in the payment of Assessments to the Association; (vii) Tenant must carry renter's insurance; (viii) Member grants the Association the power to institute an unlawful detainer action on his/her behalf for violation of the terms of the Lease Addendum; and (ix) if there is a conflict, the terms of the Lease Addendum supersede the terms of any other agreement between Member and Tenant. If a Lease Addendum is not executed as described above, Member and Association are nonetheless bound by the terms of this section as though the Lease Addendum had been executed by them.

**8.8 ~~Lease~~ Special Assessment.** In order to offset any increased costs of common area maintenance, utilities, and/or insurance attributable to occupancy by Tenants, **against each Owner who leases his/her/its Unit pursuant to Article** said special assessment shall be set annually by the Board.

Add this to your fee schedule. The CC&Rs already state that the Board can levy fees to offset costs so it does not need to be enumerated here.

**Section** You cannot prohibited reptiles, rodents or fish based on whether they are "usually domesticated." But you can prohibit poisonous and illegal pets, as is stated below.

**ARTICLE**

**are renumb** if you want to limited the number of birds to 2, do so in your rules because we are not sure it is legal to limit birds to 2 without a good reason. Dogs and cats are different because they impact the common area and other people. Birds, particularly small birds do not have much impact on the building or other people.

**9.1 Pet Limitation.** No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept within any Unit, except usual domesticated dogs, cats, and birds may be kept in Units as pets. No more than one (1) dog or cat and not more than two (2) caged birds may be kept as household pets within any Unit. Aquariums of 100 gallons or less are permitted to be maintained in Units with only non-poisonous, legal, aquatic creatures, excluding any snakes. No animal is permitted to be kept, bred, or maintained: (i) for any commercial purpose; (ii) in unreasonable numbers; or (iii) for any purpose that would involve any odor, noise, or other nuisance which would unreasonably disturb the use and enjoyment of any portion of the Development by other Members. The Board is permitted to adopt additional Rules and Regulations regarding the quantity, kinds and sizes of pets, and tanks which may be kept and other pet issues not conflicting with these CC&Rs. **Except as allowed by law, guests or invitees are not permitted to bring their animals or pets when they visit Residents in the Development**

This should be stated in your rules not CC&Rs because it is something that is very hard to police.

**9.2 Licensed and Neutered.** All dogs or cats must be spayed or neutered. All dogs must be licensed with the City. When the dog is outside the unit, it must wear the City license tag.

***We previously requested this provision. Is this no longer allowable?***

City laws change more frequently then your CC&Rs are updated. So its better to state this in your rules, which can be update whenever the law changes. Also this rule relies on the city providing these license tags. It is not something the Association has control over. The same analysis applies to spayed or neutered. The Association is not equip to enforce this rule. In addition, we are not sure it is legal.



**9.3 Size Limitation.** No dog which exceeds a weight of twenty-five (25) pounds ~~(use 50 pounds for townhomes)~~ is permitted. With proper documentation permitted by law, physically and/or mentally disabled individuals will be allowed to have an assistance/service dog over the weight limitation.

**9.4 Assistance Animals.** An animal otherwise prohibited by these CC&Rs, which is kept by a Resident for the purpose of servicing the Resident's qualified disability, may be kept by such Resident provided (i) the animal is properly cared for (i.e., kept healthy, clean, and properly groomed and waste material is properly disposed of) and not unruly or disruptive (e.g., barking, growling, running loose, displaying aggressive behavior, etc.); (ii) the Resident submits appropriate documentation to the Board verifying the animal provides a recognized service for the benefit of the person with the disability under the Fair Housing Act; and (iii) if the assistance animal is for a Guest or Visitor, the animal is on the premises only for the duration of the visit of the Guest w unless contrary to law.

The highlighted section (ii) probably conflicts with the law. Also this area of the law is changing frequently. In addition, the Association does not want to get into the business of verifying whether a guest has disability or service animal because that can lead to claims of discrimination by guest. We can a draft disability accommodation policy for the Association if you like, let us know.

**9.5 Nuisance.** The Board is authorized to prohibit any animal which, in its opinion, constitutes a nuisance to other Members pursuant to evidence provided at a noticed hearing. Pet or other animal owners shall be responsible for the prompt removal and proper disposal of animal wastes from their animals and shall be solely responsible for the conduct of the pet or other animal. Failure to do so (i.e., 'pick up after your pet') will constitute prima facie evidence of nuisance.

**Sections 9.5 through 9.8 of the 1<sup>st</sup> draft are renumbered and now beco**

The last highlight sentence was no added because it probably violates the members right to due process. Also it is legal term that applies in courts, not in Association violation hearings.

## **ARTICLE 10: VEHICLES AND PARKING**

**10.2 Restricted Parking.** Only the following types of licensed, registered, and operational vehicles are permitted to be parked ~~or stored~~ in parking spaces: automobiles, trucks, motorcycles, and mopeds. Vehicles must be parked completely within the parking space. No RV, camper, boat, recreational watercraft, trailer, or any other similar vehicle is permitted in any portion of the Common Areas or in any parking space.

See Section 10.8. So, "stored" will be "parked" in Draft 3.

**10.3 Commercial Vehicles.** Commercial vehicles, including pickup trucks one ton or larger, panel trucks, tow trucks, stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, taxis, buses, vans designed for 10 people or more, vehicles with commercial signage, and the like, are prohibited, except as provided in the Rules and Regulations. Notwithstanding the foregoing, temporary parking of commercial vehicles for the purpose of making deliveries or performing services shall be permitted in accordance with the Association Rules. Said service vehicles must be moved at any Owner's request if they are blocking access to an Owner's Unit, or are parked in a restricted, No Parking, Tow-Away Zone.

See Section 10.16 for impeding access. The details regarding deliveries and services should be stated in your rules not CC&Rs.

**10.4 Assigned Parking.** Each Member is assigned one (1) covered parking space for their exclusive use or that of their Tenants. The assigned covered parking areas shall be used only for parking conventional, registered passenger vehicles, mopeds and motorcycles by Owners, their tenants and guests and shall not be enclosed or otherwise used for storage or any other use. Unless prohibited by law, the Association is permitted to suspend such use at a disciplinary hearing due to delinquent assessments, unpaid fines or other charges, and repeated Governing Document violations. Each Member is solely responsible to ensure that each of his/her vehicle(s), or those of his/her Tenants, fits within the Member's assigned parking space.

The requested changes are redundant to Section 10.2 and 10.5 (which is added as requested below)

10.5 Parking Limitation. No Unit shall use more than two (2) parking spaces in the development without the prior written approval of the Board. No vehicle, tent or other equipment shall be used as living quarters or storage in any portion of the Common Areas or in any parking space.

10.6 Association's Right of Removal. Any officer of the Association or other person designated by the Board may authorize the removal of any motor vehicle, trailer or equipment parked or located within the Common Area in violation of this Declaration, the Association Rules or the California Vehicle Code. Such removal shall be at the expense of the owner of the motor vehicle, trailer or equipment.

***This addition changes the numbering of subsequent sections or provisions.***

This is an enforcement action and is covered by the title "Enforcement." So, if you want it specifically stated, we recommend you do so in your rules.

10.8 Registered and Proper Operating Condition. All vehicles parked ~~or stored~~ in the Development must be registered and maintained in proper operating condition, and not be a hazard or nuisance by noise, exhaust emissions, or appearance. All vehicles parked ~~or stored~~ in the Development must carry current operational license registration tags and must be insured. Unless authorized by the Board, the storage of unregistered or non-operational vehicles is not permitted.

10.10 Electric Vehicle Charging Stations. Members are permitted, with written approval of the Architectural Committee and/or Board, to install at their own expense an electric charging station compliant with Section 4745 of the Civil Code or any successor statute. Use of Association electricity to power a Member's electrical vehicle charging station is prohibited unless, following written approval of the Architectural Committee and/or the Board, the Member has installed an electrical submeter to track electricity usage, and the Member must pay the Association for all Association electricity used by the electrical vehicle charging station. The Association may impose reasonable requirements on the location and installation of the equipment. All electrical work must be done by a licensed electrician with appropriate permits from the Building Department.

10.15 Theft or Damage. All parking in the Development is at vehicle owner's risk. The Association is not liable for any loss or damage suffered by any Member, Tenant, or guest due to theft of or damage to any vehicle or vehicle contents, unless resulting from the Association's intentional misconduct or gross negligence.

The highlighted language is redundant to what is already stated in this section.

10.16 Impeding Access. Vehicles must not impede or prevent ready access to any door, gate, entrance, exit, sidewalk, walkway or firelane.

## ARTICLE 15: INSURANCE

15.2 Member Obligation to Carry Insurance. At their sole expense, Members must purchase insurance covering their personalty and property, including, without limitation: (i) real property and personal property coverage that insures their Separate Interest and its contents against damage or loss, including, but not limited to, all fixtures, components and Unit improvements within or appurtenant to the Separate Interest or Exclusive Use Common Area which are not covered by the Association's property damage policy; (ii) premises liability that includes protection for bodily injury and property damage; (iii) personal liability coverage, (iv) loss of use that protects a Member for additional living expenses should his/her Unit become uninhabitable due to a covered loss; (v) loss assessment coverage that protects against Special Assessments due to a loss which exceeds the Association's

master policy limits or deductible, (vi) master policy deductible coverage, and (vii) such other coverage as the Member deems appropriate. In addition, if a Member operates a vehicle which is driven across or **stored parked** in the Association's Common Areas, the Member must carry appropriate automobile insurance. The Association has no obligation to police this provision and is specifically relieved of any responsibility or liability from doing so or failing to do so.

## ARTICLE 16: PROTECTION OF LENDERS

**16.6 Curing of Breaches.** A Lender who acquires title to any Unit, pursuant to the remedies provided in the mortgage, through foreclosure of the mortgage, by deed in lieu of foreclosure, or otherwise shall not be obligated to cure any breach of these CC&Rs which is noncurable or of a type which is not practical or feasible to cure. For the purpose of this section, if a Lender acquires title by a deed in lieu of foreclosure, then delinquent Assessments owed on that Unit by a previous Member shall not be a noncurable breach or a breach which is not practical or feasible to cure and an Assessment lien on that Unit shall not be rendered invalid or unenforceable by virtue of the Lender's receipt of title to that Unit.

This is a statement of existing law and is not necessary because 1) the law may change before your CC&Rs are updated again and 2) it only protects the lender and not the Association or the members, so no reason to include it.

## ARTICLE 20: MISCELLANEOUS

**20.1 Notice of Airport and Railroad in Vicinity.** This property is presently located in the vicinity of an airport, within what is known as an airport influence area. **The property is also immediately adjacent to an active railroad.** For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport **or railroad** operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what **such** annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

OWNER'S CERTIFICATE

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF, OR HAVE AN INTEREST IN THE LAND INCLUDED WITHIN THIS PROJECT AND THAT WE ARE THE OWNERS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID LAND. WE CONSENT TO THE MAKING AND RECORDED OF THIS PLAN, PURSUANT TO THE PROVISIONS OF CHAPTER 1, TITLE 6, PART 4, DIVISION SECOND OF THE CIVIL CODE.

THE GROVES, A JOINT VENTURE COMPOSED OF SANTA BARBARA CAPITAL, A PARTNERSHIP, AND FINANCIAL PROPERTIES DEVELOPMENT, A JOINT VENTURE COMPOSED OF INVEST WEST FINANCIAL CORPORATION, A CALIFORNIA CORPORATION AND FINANCIAL PROPERTIES, LTD, A CALIFORNIA LIMITED PARTNERSHIP.

SANTA BARBARA CAPITAL, A PARTNERSHIP  
BY: GROTEHUIS INVESTMENTS, INC. A CALIFORNIA CORPORATION - PARTNER

BY: David W. Grotehuis  
DAVID W. GROTEHUIS - PRESIDENT

BY: KVM ENTERPRISES, INC., A CALIFORNIA CORPORATION - PARTNER

BY: Karl V. Willig  
KARL V. WILLIG - PRESIDENT

BY: W.G.S. INVESTMENTS, INC., A CALIFORNIA CORPORATION - PARTNER

BY: W.G.S. Investments  
W.G.S. INVESTMENTS - PRESIDENT

FINANCIAL PROPERTIES DEVELOPMENT, A JOINT VENTURE  
BY: INVEST WEST FINANCIAL CORPORATION, A CALIFORNIA CORPORATION

BY: Dale J. Marquis  
DALE J. MARQUIS - PRESIDENT

BY: FINANCIAL PROPERTIES LTD, A CALIFORNIA LIMITED PARTNERSHIP.  
BY: INVEST WEST FINANCIAL CORPORATION, A CALIFORNIA CORPORATION - GENERAL PARTNER

STATE OF CALIFORNIA } S.S.  
COUNTY OF SANTA BARBARA

ON July 16, 1985, BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DAVID W. GROTEHUIS PERSONALLY KNOWN TO ME (OR PROVIDED ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT AS PRESIDENT ON BEHALF OF GROTEHUIS INVESTMENTS, INC., A CALIFORNIA CORPORATION, THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BYLAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS, SAID CORPORATION BEING KNOWN TO ME TO BE A PARTNER OF SANTA BARBARA CAPITAL, A PARTNERSHIP, THAT THE PARTNERSHIP THAT EXECUTED THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SUCH PARTNERSHIP EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL: Lisa A. Stevens  
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } S.S.  
COUNTY OF SANTA BARBARA

ON July 16, 1985, BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED KARL V. WILLIG, PERSONALLY KNOWN TO ME (OR PROVIDED ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT AS PRESIDENT ON BEHALF OF KVM ENTERPRISES, INC., A CALIFORNIA CORPORATION, THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BYLAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS, SAID CORPORATION BEING KNOWN TO ME TO BE A PARTNER OF SANTA BARBARA CAPITAL, A PARTNERSHIP, THAT THE PARTNERSHIP THAT EXECUTED THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SUCH PARTNERSHIP EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL: Lisa A. Stevens  
NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

TITLE SHEET

CONDOMINIUM PLAN

FOR (LOT 1) OF TRACT NO. 18,421 IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 127, PAGES 55 & 56 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

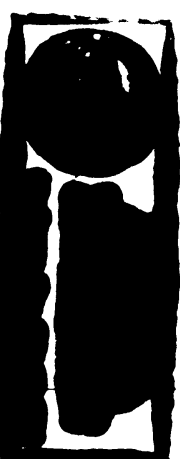
THE GROVE CONDOMINIUMS

JULY, 1985

COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

LAWRANCE, FISK & MCFARLAND, INC.

314 EAST CARRILLO, SUITE 1  
SANTA BARBARA, CALIFORNIA 93101  
(805) 962 - 6547



BENEFICIARIES

BROOKSIDE SAVINGS & LOAN ASSOCIATION, A CALIFORNIA CORPORATION AS BENEFICIARY UNDER DEEDS OF TRUST RECORDED DECEMBER 27, 1984, AS INSTRUMENT NOS. 84-68938, 84-68939, 84-68940, AND 84-68941 OF OFFICIAL RECORDS.

BY: David Howard BY: Lisa A. Stevens

STATE OF CALIFORNIA } S.S.  
COUNTY OF SANTA BARBARA

ON July 30, 1985, BEFORE ME, THE UNDERSIGNED A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED DAVID HOWARD PERSONALLY KNOWN TO ME (OR PROVED ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE VICE PRESIDENT AND ARTHUR H. CASSEL PERSONALLY KNOWN TO ME (OR PROVED ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE SECRETARY OF BROOKSIDE SAVINGS & LOAN ASSOCIATION, A CALIFORNIA CORPORATION, THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BYLAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS  
WITNESS MY HAND AND FOR SAID COUNTY AND STATE  
NOTARY IN AND FOR SAID COUNTY AND STATE  
MY COMMISSION EXPIRES SEPT. 12, 1988  
BY: Michele Macdonald  
COUNTY RECORDERS CERTIFICATE

I HEREBY CERTIFY THAT THIS CONDOMINIUM PLAN FOR LOT 1 OF TRACT NO. 18,421 CONSISTING OF 12 SHEETS WAS ACCEPTED AND RECORDED AUGUST 1st 1985, IN BOOK 130, AT PAGES 55 TO 66 OF CONDOMINIUM RECORDS OF SANTA BARBARA COUNTY, STATE OF CALIFORNIA, AT 8:00 A.M.

HOWARD C. MENZEL  
COUNTY CLERK - RECORDER  
SANTA BARBARA COUNTY

BY: Mary Gene Macdonald  
DEPUTY RECORDER

CERTIFICATE OF ENGINEER

I, GARY L. MCFARLAND, REGISTERED CIVIL ENGINEER NO. 26590, HEREBY CERTIFY THAT THIS CONDOMINIUM PLAN CONSISTING OF 10 SHEETS CORRECTLY SHOWS THE BOUNDARIES OF THE LAND AND THE RELATION THEREOF OF THE UNITS SHOWN THEREON AND THAT THE UNITS DESCRIBED HEREIN OCCUPY THE PORTIONS SHOWN HEREON WITH UNDEVIATING.  
DATE: July 17, 1985  
BY: Gary L. McFarland  
GARY L. MCFARLAND  
R.C.E. 26590

TITLE SHEET

CONDOMINIUM PLAN

FOR (LOT 1) OF TRACT NO. 13,421 IN THE  
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA.  
AS SHOWN ON A MAP RECORDED IN BOOK  
127, PAGES 55 & 56 OF MAPS, IN THE  
OFFICE OF THE COUNTY RECORDER  
OF SAID COUNTY.

THE GROVE CONDOMINIUMS

JULY , 1985

COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

STATE OF CALIFORNIA } S.S.  
COUNTY OF SANTA BARBARA }

ON JULY 16, 1985, BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WAYNE SIEMENS PERSONALLY KNOWN TO ME (OR PROVIDED ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT AS PRESIDENT ON BEHALF OF W.G.S. INVESTMENTS, A CALIFORNIA CORPORATION. THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BYLAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS, SAID CORPORATION BEING KNOWN TO ME TO BE A PARTNER OF SANTA BARBARA CAPITAL, a Partnership, the Partnership ~~CONSENT~~ THAT EXECUTED THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SUCH PARTNERSHIP EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL: Arlene M. Kostock

NOTARY PUBLIC IN AND FOR  
SAID COUNTY AND STATE

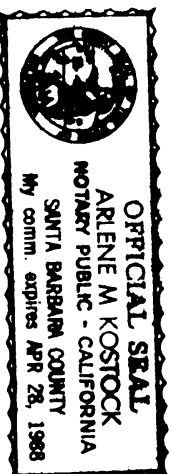


STATE OF CALIFORNIA } S.S.  
COUNTY OF SANTA BARBARA }

ON JULY 16, 1985, BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DALE J. MARQUIS, PERSONALLY KNOWN TO ME (OR PROVIDED ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON WHO EXECUTED THE WITHIN INSTRUMENT AS PRESIDENT ON BEHALF OF INVEST WEST FINANCIAL CORPORATION, A CALIFORNIA CORPORATION, THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SAID CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BYLAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS, SAID CORPORATION BEING KNOWN TO ME TO BE THE GENERAL PARTNER OF FINANCIAL PROPERTIES, LTD., A CALIFORNIA LIMITED PARTNERSHIP, THE LIMITED PARTNERSHIP THAT EXECUTED THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SUCH PARTNERSHIP EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL: Arlene M. Kostock

NOTARY PUBLIC IN AND FOR SAID STATE.

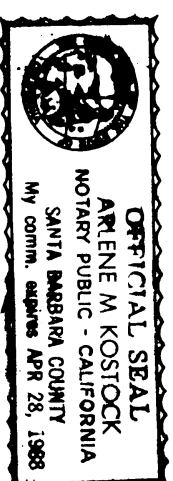


STATE OF CALIFORNIA } S.S.  
COUNTY OF SANTA BARBARA }

ON JULY 16, 1985, BEFORE ME, THE UNDERSIGNED A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED DALE J. MARQUIS, PERSONALLY KNOWN TO ME (OR PROVED ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PRESIDENT OF INVEST WEST FINANCIAL CORPORATION, A CALIFORNIA CORPORATION, THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BYLAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS.

WITNESS MY HAND AND OFFICIAL SEAL: Arlene M. Kostock

NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE





NOTES AND DEFINITIONS

1. THE "COMMON AREA" OF THIS PROJECT SHOWN HEREON IS THE LAND AND REAL PROPERTY INCLUDED WITHIN THE BOUNDARY LINES OF LOT 1 OF SUBDIVISION MAP TRACT 18481 RECORDED IN BOOK 127 PAGES 65 THROUGH 66 RECORDED OF SANTA BARBARA COUNTY EXCEPTING THEREFROM THOSE PORTIONS SHOWN AND DENIED AS UNITS 1 TO 60 INCLUSIVE.
2. EACH OF THE UNITS 1 TO 60 INCLUSIVE IS COMPOSED OF ONE OR MORE AIRSPACES AS SET FORTH IN THE CHART ON THIS SHEET.
3. THE FOLLOWING ARE NOT A PART OF THE UNIT: BEARING WALLS, COLUMNS, HORIZONTAL SUPPORTS, VERTICAL SUPPORTS, FLOORS, ROOFS, CEILINGS, FOUNDATIONS, PATIO WALLS, STEPS AND RAILINGS, EXTERIOR LIGHTING FIXTURES, PIPES, DUCTS, FLUES, CHUTES, CONDUITS, WIRES AND OTHER UTILITY INSTALLATIONS, WHEREVER LOCATED, EXCEPT THE OUTLETS THEREOF WHEN LOCATED WITHIN THE UNIT, AND AS PROVIDED FOR IN THE RECORDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THIS PROJECT.
4. THE BOUNDARIES OF EACH AIRSPACE ARE AS FOLLOWS:
- A. THE LOWER VERTICAL BOUNDARY IS THE SURFACE OF THE FINISHED FLOOR THEREOF LISTED AS L.B. OR LOWER VERTICAL BOUNDARY.
- B. THE UPPER VERTICAL BOUNDARY OF SAID AIR SPACES ARE THE HORIZONTAL PLANE WHICH COINCIDES WITH THE ELEVATION OF THE HIGHEST FINISHED CEILING THEREOF AND/OR THE INCLINED PLANE WHICH COINCIDES WITH THE INTERIOR FINISHED SURFACE OF THE CEILING WITHIN EACH UNIT AS SHOWN IN DETAIL HEREIN AND LISTED AS U.B. OR UPPER VERTICAL BOUNDARY.
- C. THE LATERAL BOUNDARIES ARE THE INTERIOR SURFACES OF THE PERIMETER WALLS, WINDOWS AND DOORS THEREOF.
- EACH SUCH AIRSPACE INCLUDES THE SURFACE SO DESCRIBED, THE PORTIONS OF THE BUILDINGS AND IMPROVEMENTS INCLUDED WITHIN SAID BOUNDARIES AND THE AIRSPACE SO ENCOMPASSED EXCEPT AS STATED IN NOTE 3 ABOVE.
5. EACH OF THOSE PORTIONS OF THE COMMON AREA DESIGNATED HEREIN AS AN EASEMENT FOR PATIO, BALCONY, OR HEATING ARE EXCLUSIVE USE EASEMENTS FOR THE UNITS AS SHOWN HEREIN AND LABELED WITH THE UNIT NUMBER AND CIRCLED "E". EXAMPLE: 31 (E)
- A. THE LOWER VERTICAL BOUNDARY IS THE SURFACE OF THE FINISHED FLOOR OR GROUND SURFACE LISTED AS L.B. OR LOWER VERTICAL BOUNDARY.
- B. THE UPPER VERTICAL BOUNDARY IS A HORIZONTAL PLANE THE ELEVATION OF WHICH IS 8.0 FEET ABOVE THE ELEVATION OF THE LOWER VERTICAL BOUNDARY OR THE INCLINED PLANE WHICH COINCIDES WITH THE INTERIOR FINISHED SURFACE OF THE CEILING AS SHOWN IN DETAIL HEREIN AND LISTED AS U.B. OR UPPER VERTICAL BOUNDARY.
- C. THE LATERAL BOUNDARIES ARE AT THE LIMITS OF THE HORIZONTAL DIMENSIONS SHOWN HEREIN.

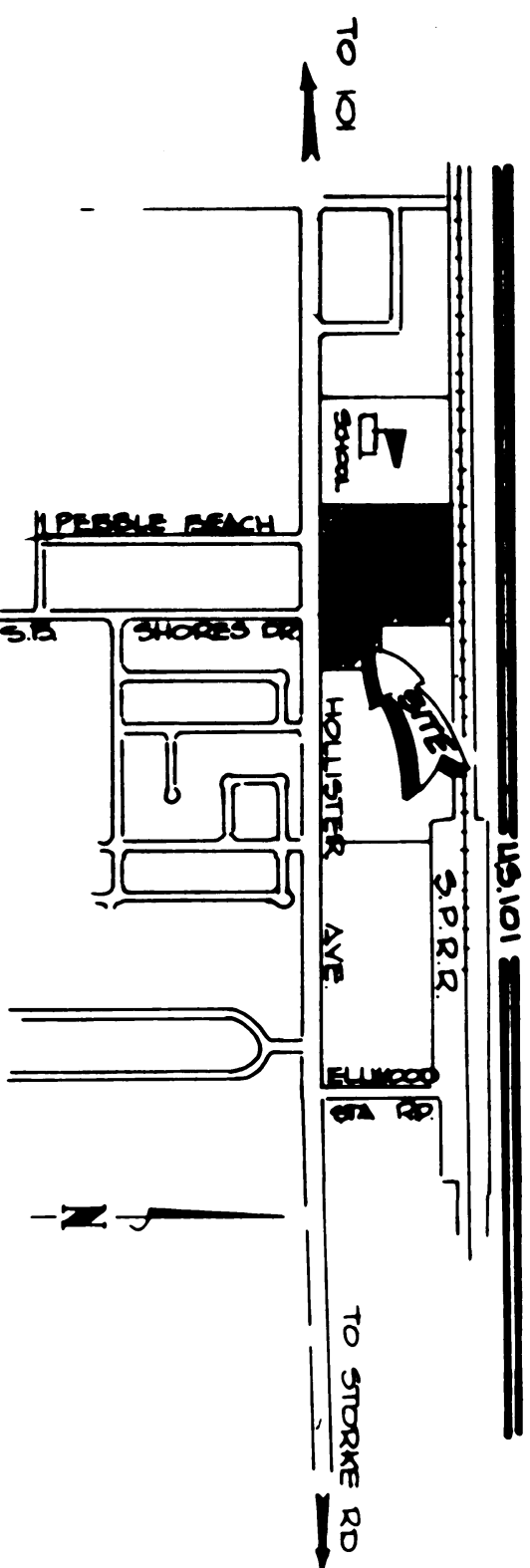
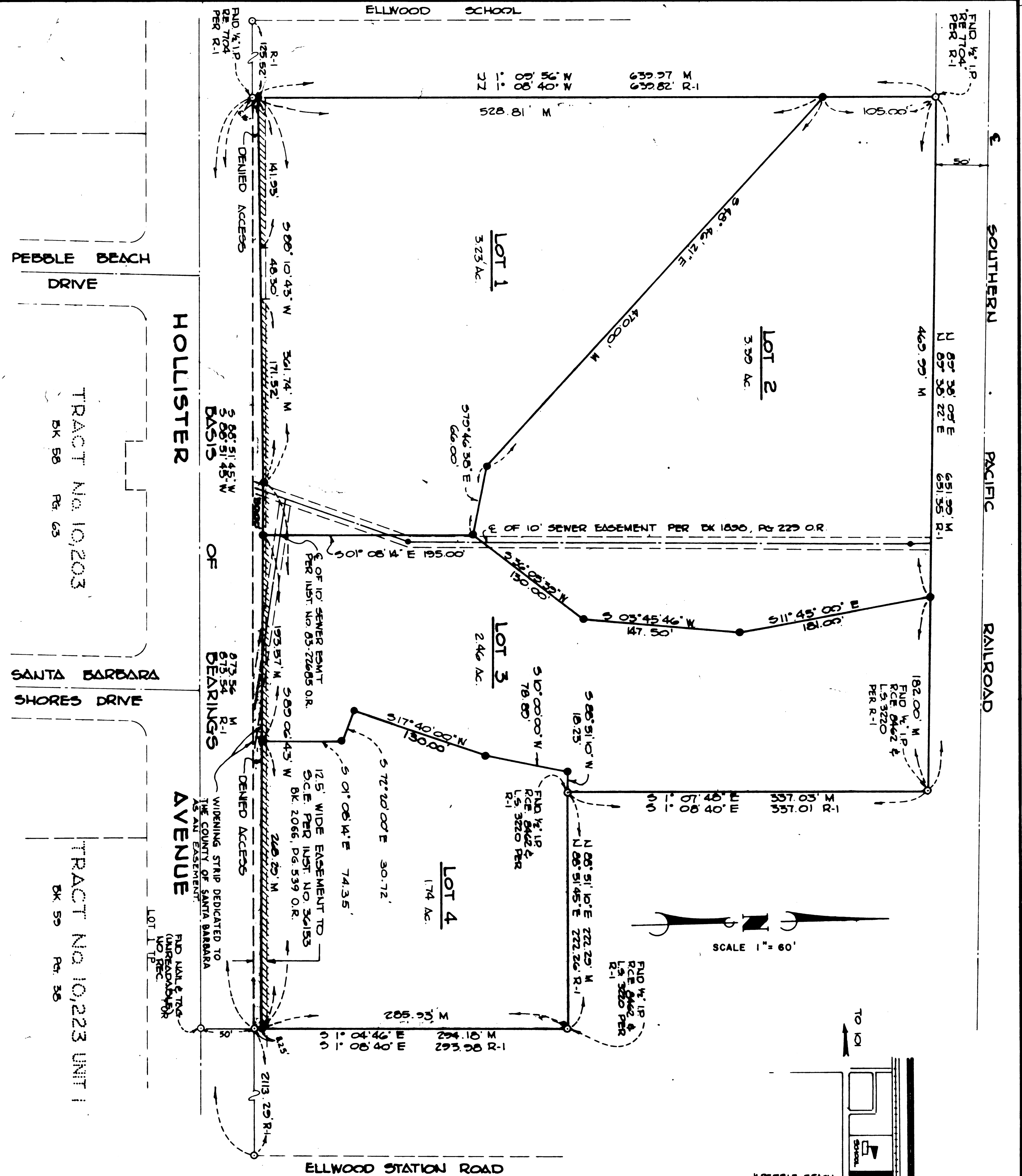
UNIT LISTINGS

UNIT NO.	SHEET	AIRSPACE
1	6	1 Cx
2	6	2 Kx, K1
3	6	3 Fx, F1
4	6	4 Bx
5	6	5 Dx
6	6	6 Gx
7	6	7 Ex
8	6	8 E
9	6	9 Dx
10	6	10 Gx
11	6	11 Ex
12	6	12 I
13	6	13 H
14	6	14 E
15	6	15 Jx
16	7	16 B
17	7	17 Kx, K1
18	7	18 Fx, F1
19	7	19 Bx
20	7	20 Dx
21	7	21 D
22	7	22 Ex
23	7	23 E
24	7	24 Dx
25	7	25 J
26	7	26 Ex
27	7	27 I
28	7	28 H
29	7	29 E
30	7	30 Jx
31	8	31 Cx
32	8	32 Kx, K1
33	8	33 Fx, F1
34	8	34 Bx
35	8	35 Dx
36	8	36 Gx
37	8	37 Ex
38	8	38 E
39	8	39 Dx
40	8	40 Gx
41	8	41 Ex
42	8	42 I
43	8	43 H
44	8	44 E
45	8	45 Jx
46	9	46 A
47	9	47 B
48	9	48 Kx, K1
49	9	49 Fx, F1
50	9	50 C
51	9	51 D
52	9	52 Ex
53	9	53 E
54	9	54 G
55	9	55 J
56	9	56 Gx
57	9	57 I
58	9	58 H
59	9	59 E
60	9	60 G

CONDOMINIUM PLAN

FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985  
LAWRANCE, FISK & MCFARLAND, INC.  
314 E. CARRILLO ST. SUITE 1  
SANTA BARBARA, CALIFORNIA 93101  
PHONE (805) 962-6547

SHEET 3 OF 12 SHEETS



**VICINITY MAP**

SCALE 1" = 1000'

**LEGEND**

- NO MONUMENT FOUND OR SET UNLESS OTHERWISE NOTED.
- SET 1/2" I.P. MK'D "R.C.E. 26590" M MEASURED
- R-1 RECORD PER BK 80 PG. 15 R.S.
- ||||| DENOTES WAIVER OF ADJUTTER'S ACCESS RIGHTS

**NOTES**

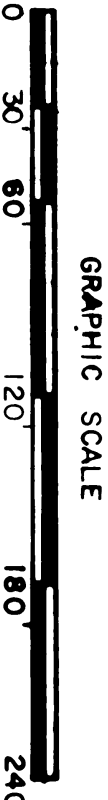
THIS SHEET IS TO BE USED FOR GENERAL LOCATION PURPOSES ONLY. REFER TO COMMON AREA MAP (SHEET 4) FOR FINAL PHASE ONE DIMENSIONS AND DETAILS.

**BASIS OF BEARINGS**

CENTERLINE OF HOLLISTER AVENUE, BEARING S 88° 51' 45" W

**BENCHMARK**

NAIL & TAG, TOP OF CURB, EASTERLY END OF CURB RETURN SANTA BARBARA SHORES DRIVE AND HOLLISTER AVENUE.  
ELEV. = 75.00'

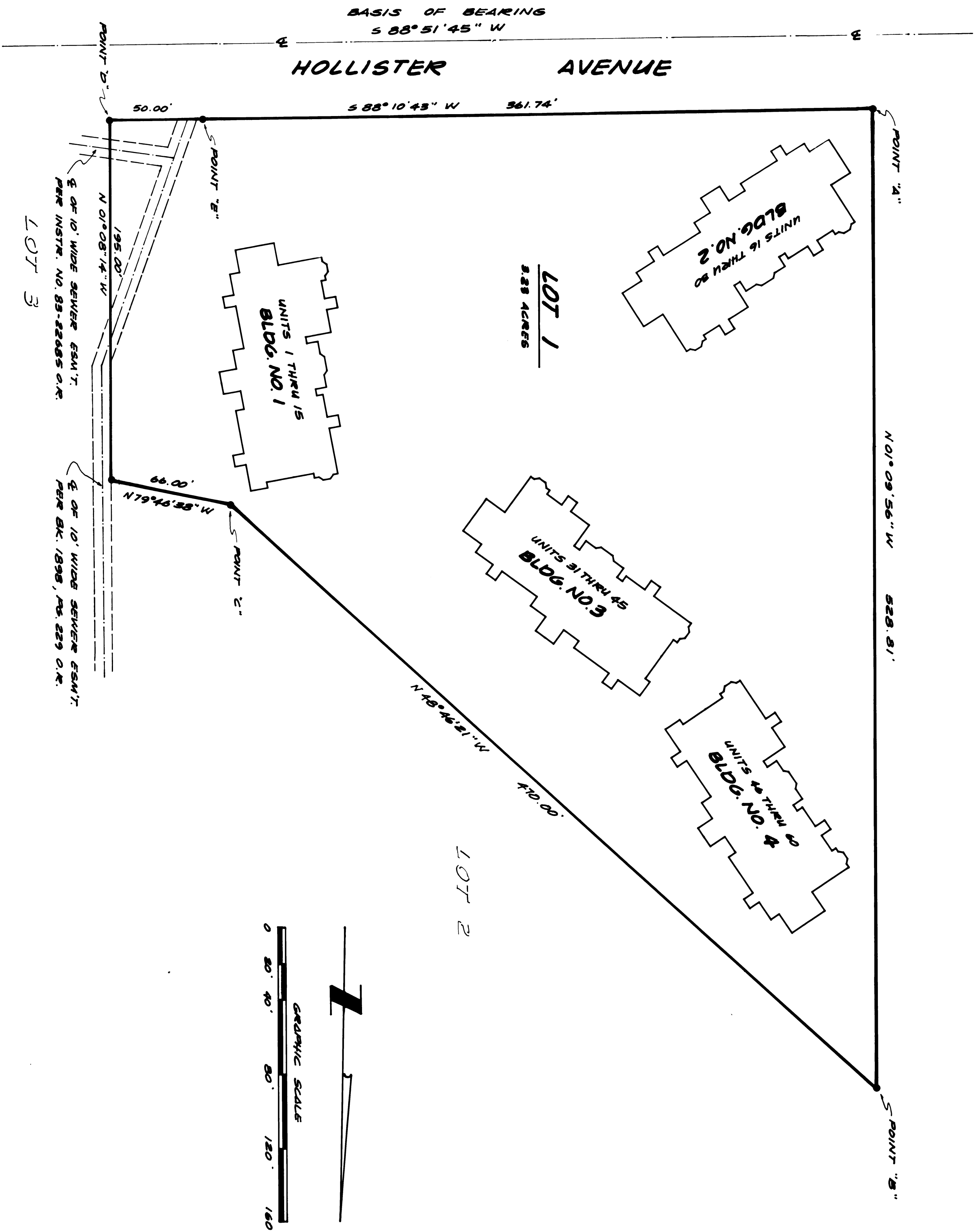


LOCATION PLAN

**CONDOMINIUM PLAN**

FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985  
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SHEET 4 OF 12 SHEETS



**NOTES**

1. BEARINGS AND DISTANCES AND SURVEY MONUMENTS SHOWN HEREON ARE RECORDED PER BOOK 127 PAGES 55 THRU 56 INCLUSIVE OF MAPS.
2. SEE SHEET 2, NOTE 1 FOR DEFINITION OF COMMON AREA.

**COMMON AREA**

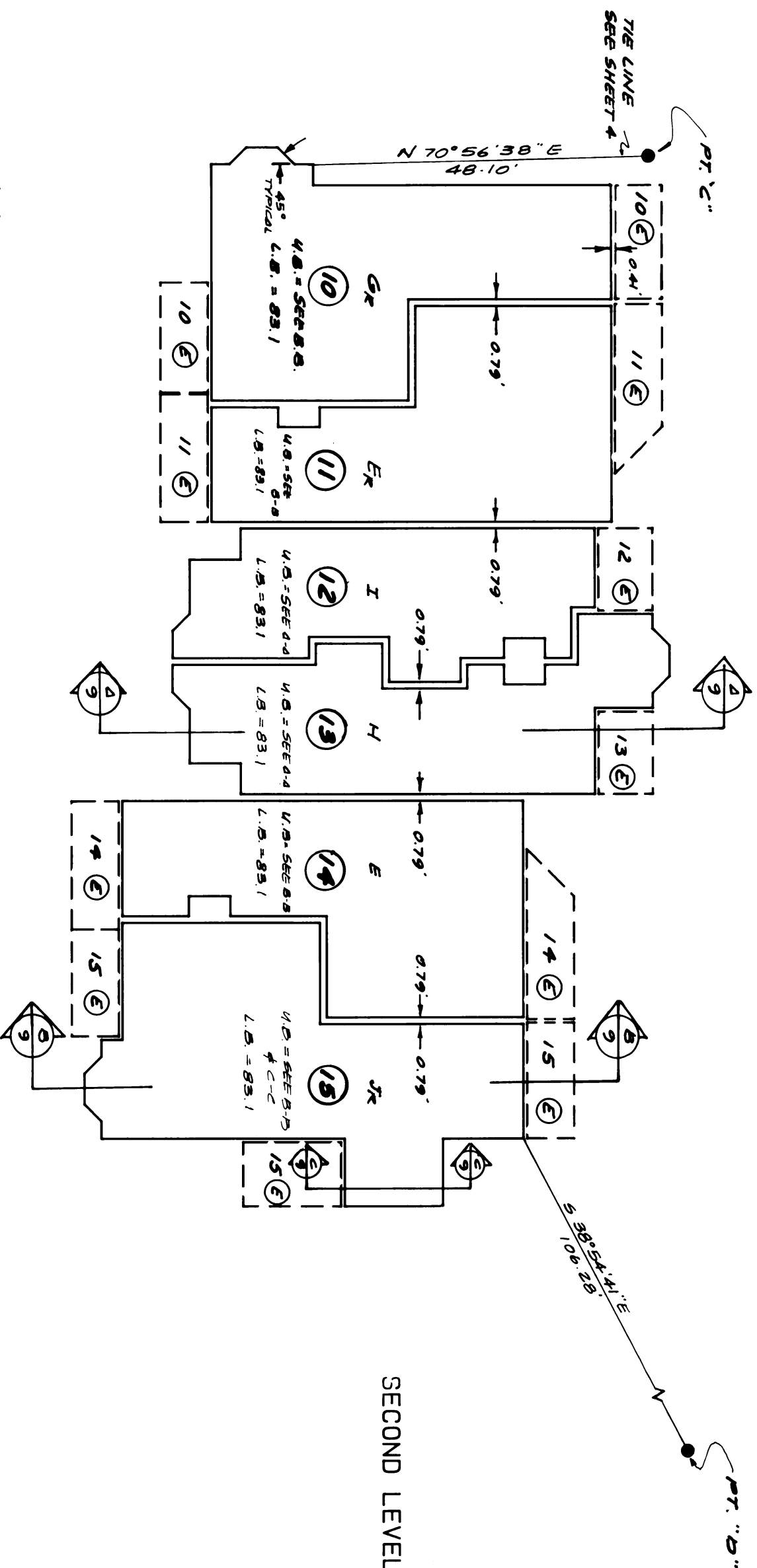
(EXCEPTING UNITS 1 THROUGH 60)

**CONDOMINIUM PLAN**

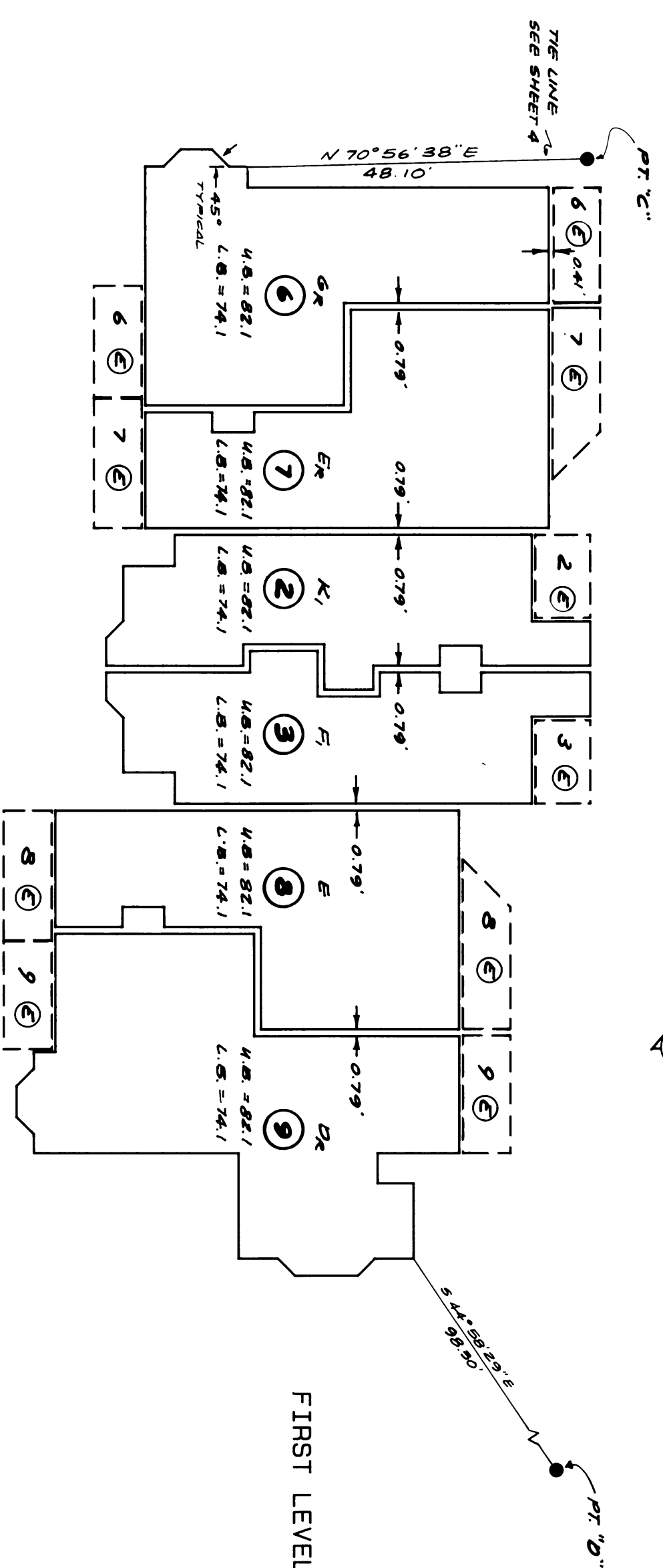
FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985  
**LAWRANCE, FISK & MCFARLAND, INC.**  
314 E. CARRILLO ST. SUITE 1  
SANTA BARBARA, CALIFORNIA 93101  
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SHEET 5 OF 12 SHEETS

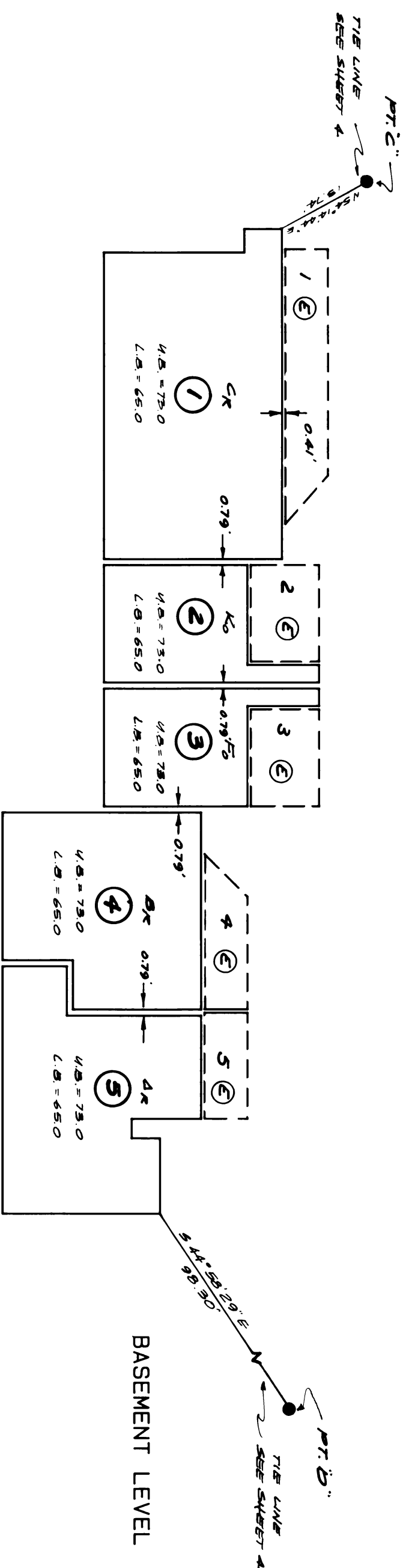




SECOND LEVEL



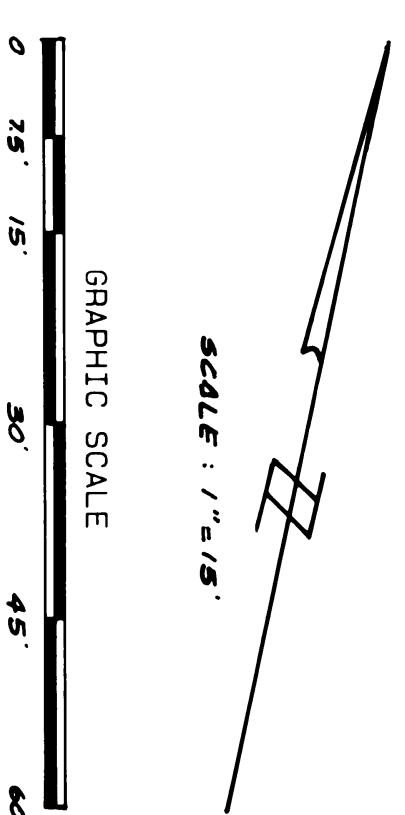
FIRST LEVEL



BASEMENT LEVEL

- LEGEND
- L.B. = LOWER VERTICAL BOUNDARY
  - U.B. = UPPER VERTICAL BOUNDARY
  - K = KITCHEN
  - B.R. = BEDROOM
  - UNIT NUMBER
  - EXCLUSIVE USE EASEMENT

- NOTES
- ALL AIRSPACE BOUNDARY LINES INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED.
  - TIES ARE TO OUTSIDE CORNER OF AIRSPACE
  - FOR UNIT DIMENSIONS SEE SHEETS 10 AND 11.

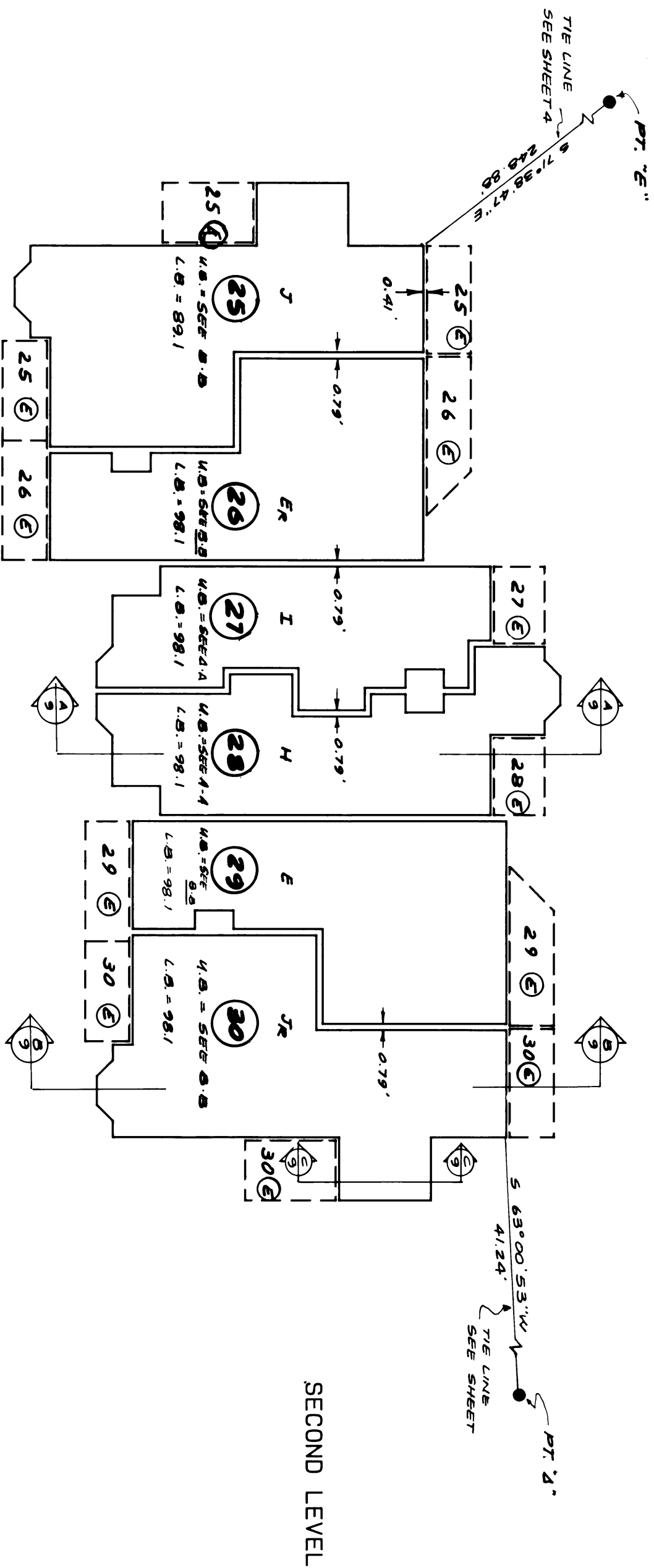


UNITS 1 THRU 15  
BUILDING NO. 1

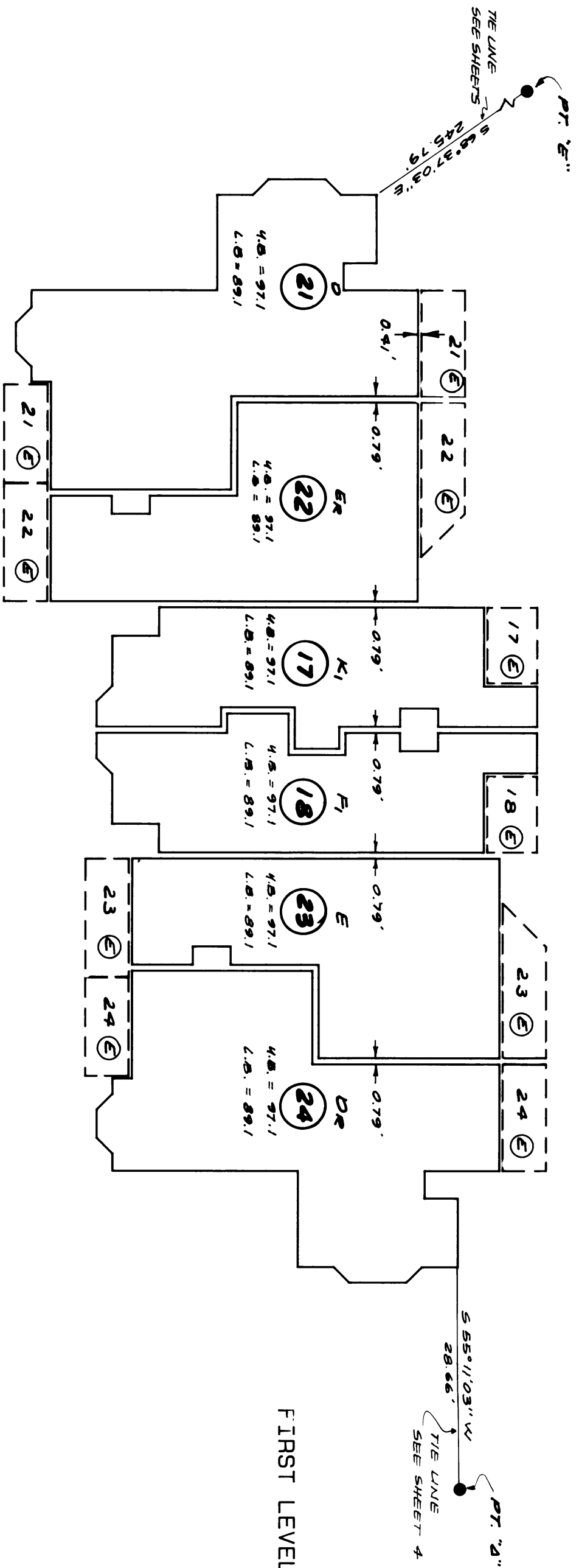
CONDOMINIUM PLAN

FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985  
LAWRANCE, FISK & MCFARLAND, INC.  
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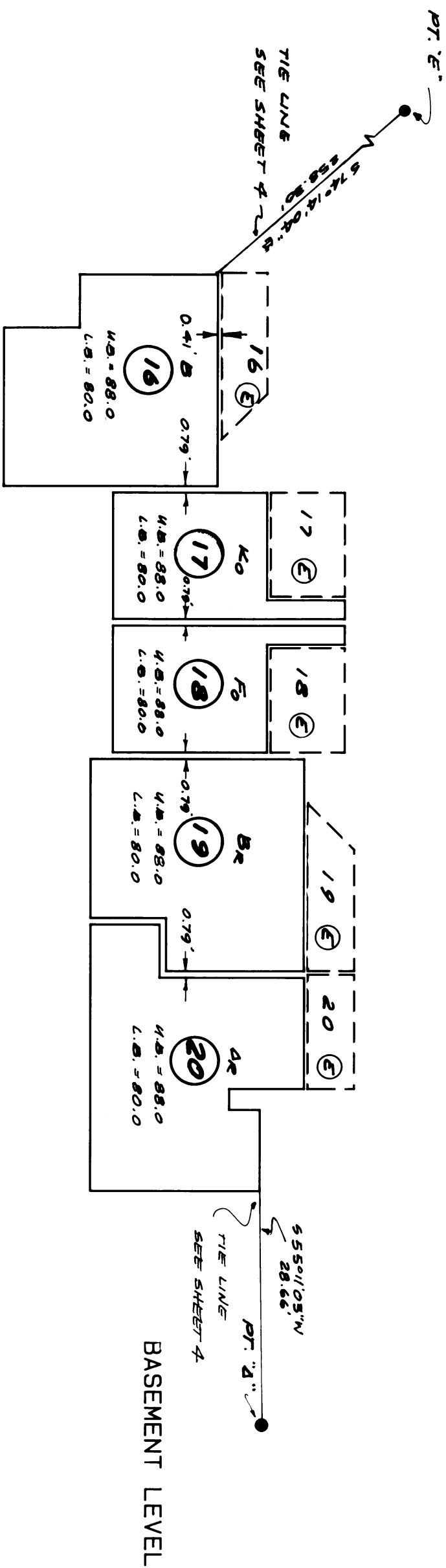
SHEET 6 OF 12 SHEETS



SECOND LEVEL



FIRST LEVEL



BASEMENT LEVEL

- LEGEND
- L.B. = LOWER VERTICAL BOUNDARY
  - U.B. = UPPER VERTICAL BOUNDARY
  - B = FLOOR PLAN TYPE
  - ① = UNIT NUMBER
  - ② = EXCLUSIVE USE CASSEMENT

NOTES

- ALL AIRSPACE BOUNDARY LINES INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED.
- TIES ARE TO OUTSIDE CORNER OF AIRSPACE
- FOR UNIT DIMENSIONS SEE SHEETS 10 AND 11.



SCALE 1" = 15'

GRAPHIC SCALE

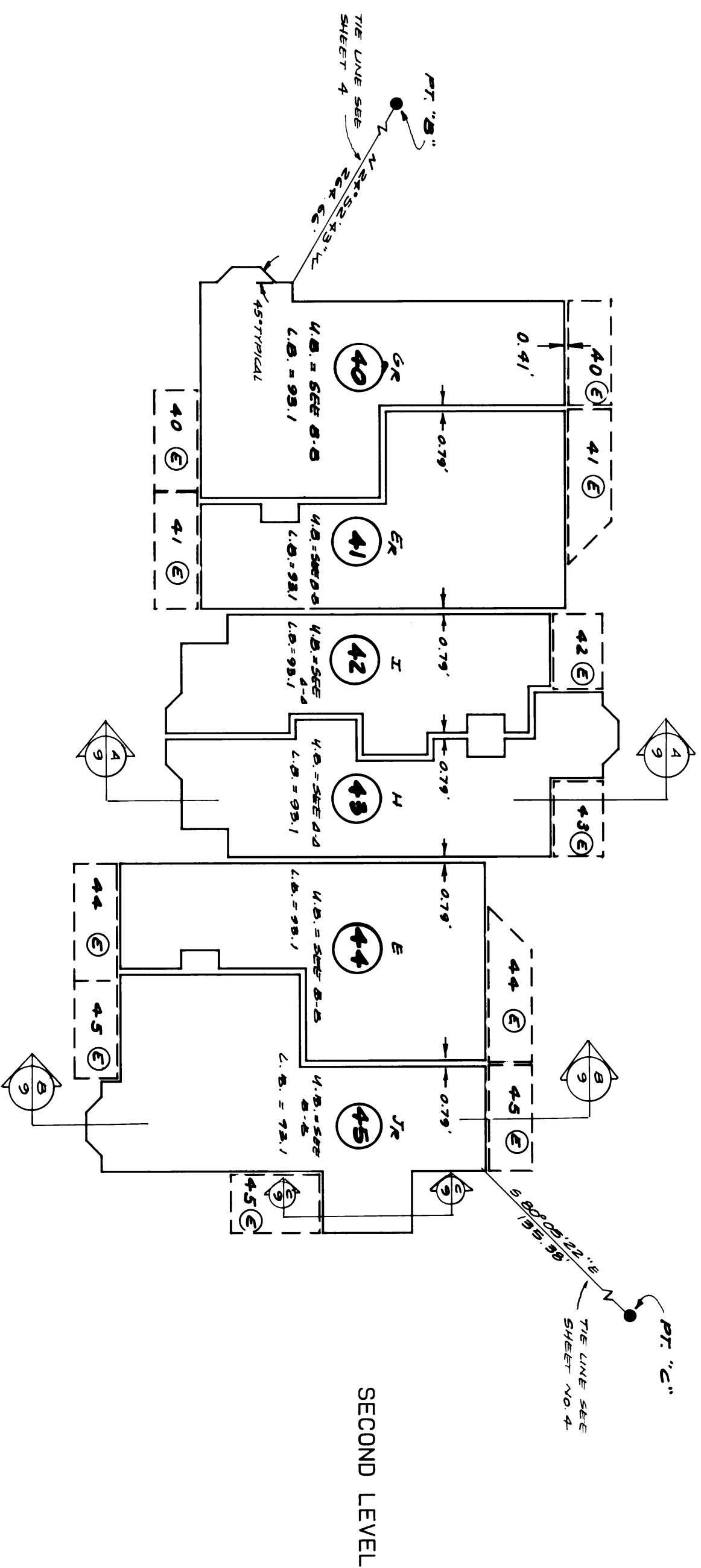
UNITS 16 THRU 30  
BUILDING NO. 2

CONDOMINIUM PLAN

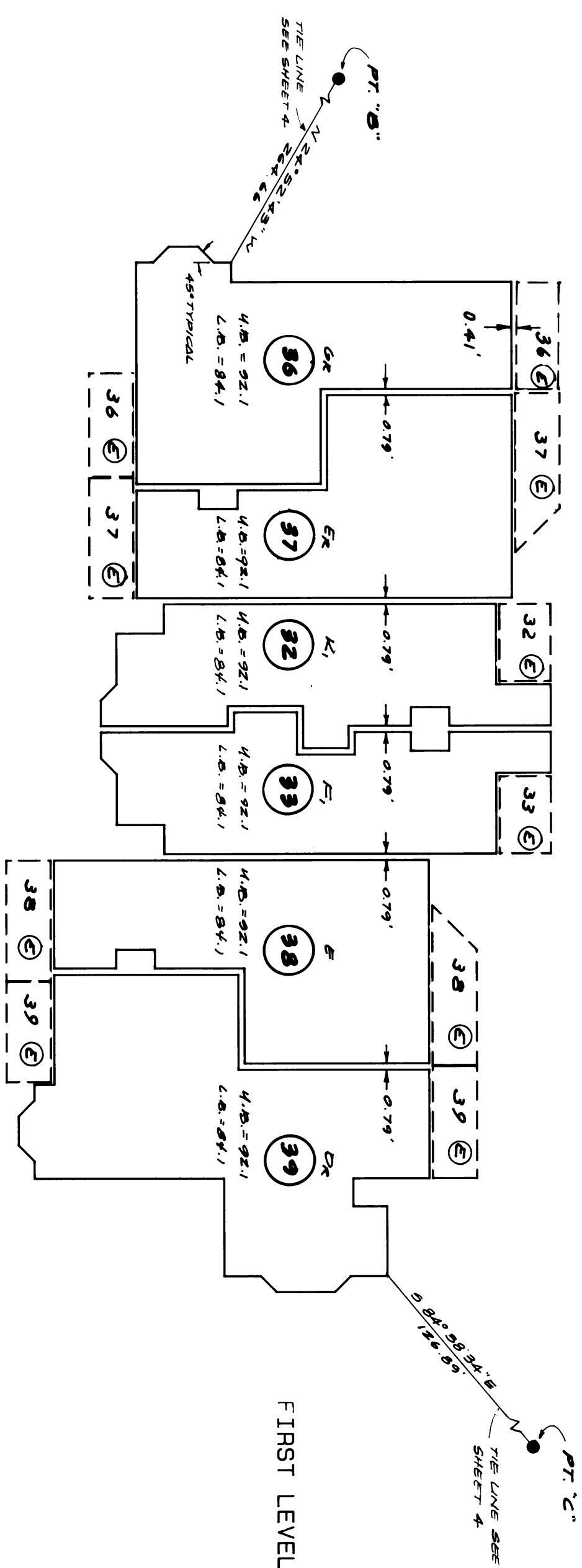
FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985

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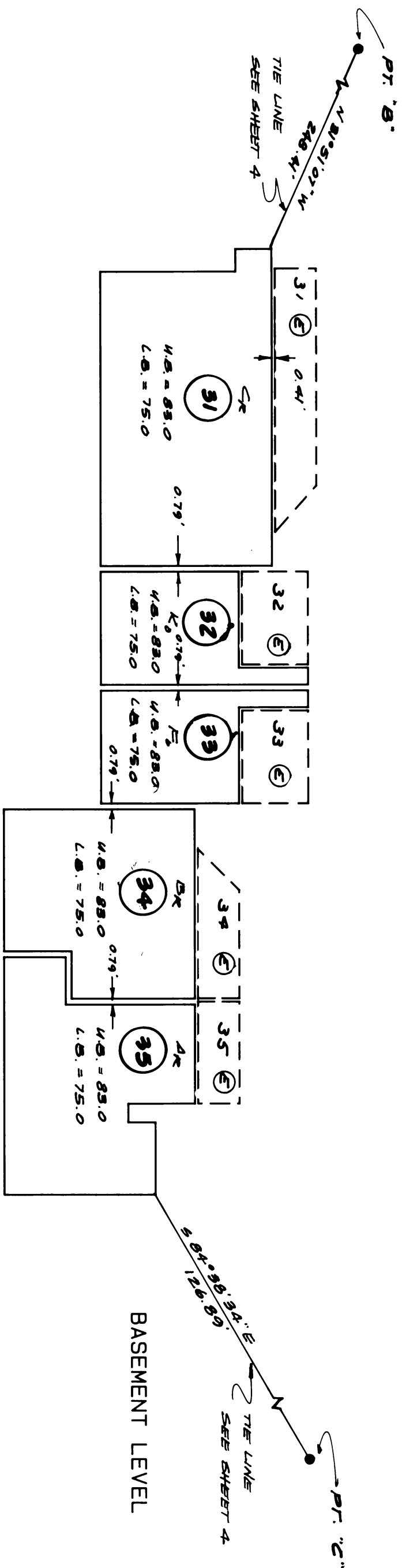
SHEET 7 OF 12 SHEETS



SECOND LEVEL



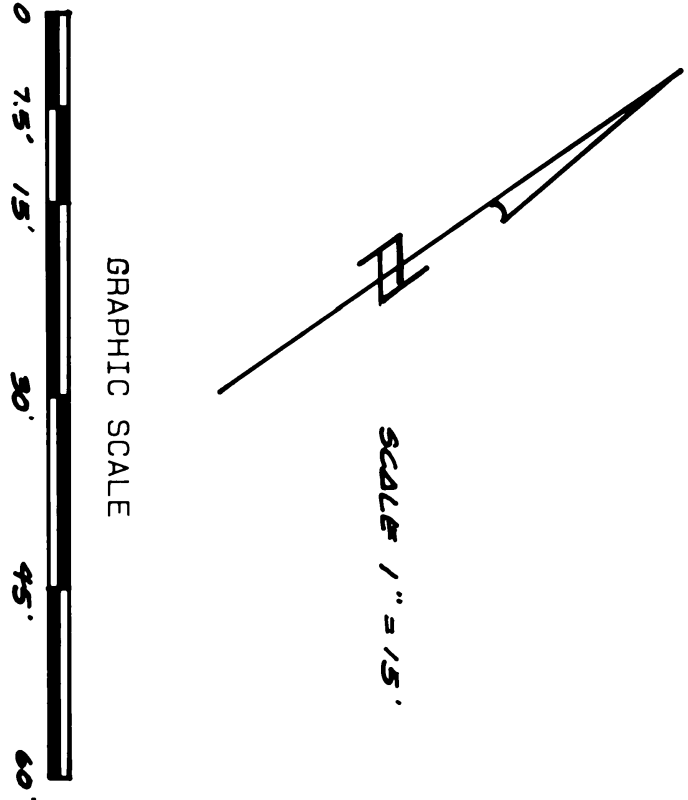
FIRST LEVEL



BASEMENT LEVEL

- LEGEND
- L.B. = LOWER VERTICAL BOUNDARY
  - U.B. = UPPER VERTICAL BOUNDARY
  - E = FLOOR PLAN TYPE
  - 39 = UNIT NUMBER
  - E = EXCLUSIVE USE CASSEMENT

- NOTES
- ALL AIRSPACE BOUNDARY LINES INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED.
  - TIES ARE TO OUTSIDE CORNER OF AIRSPACE
  - FOR UNIT DIMENSIONS SHEETS 10 AND 11.



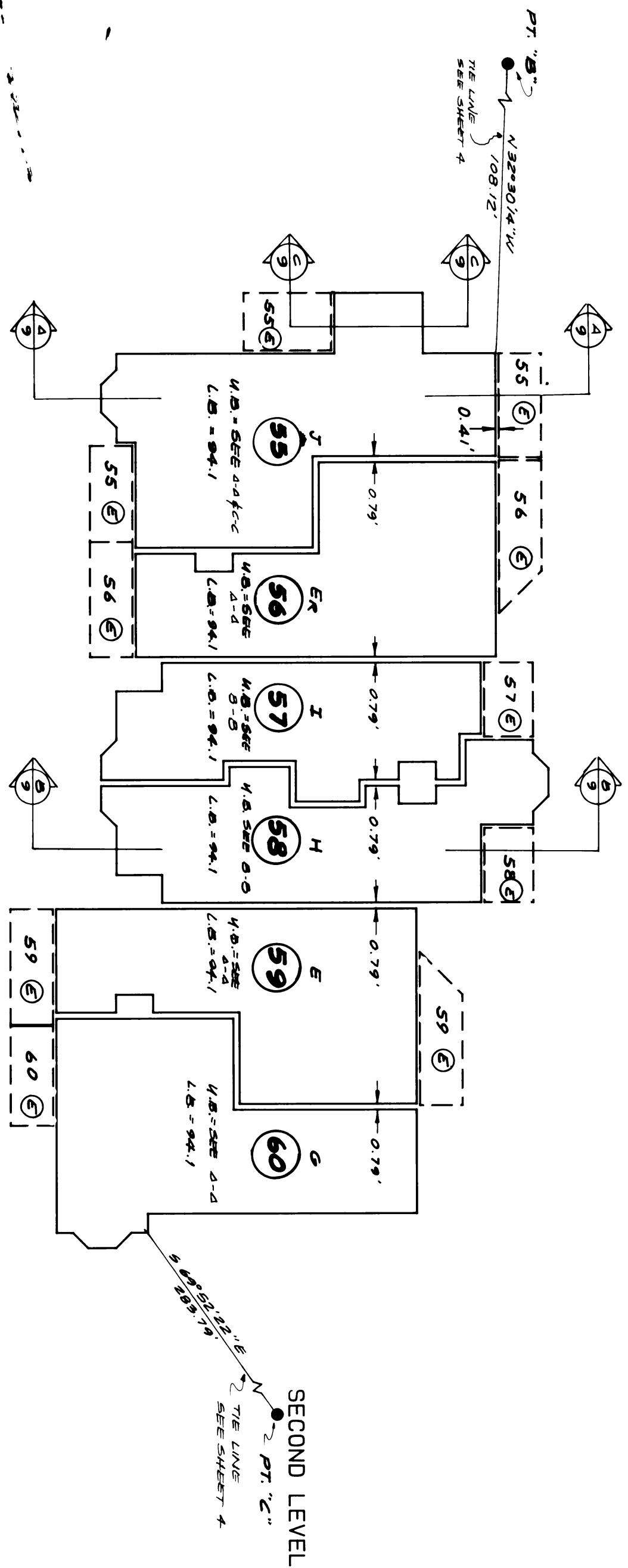
UNITS 31 THRU 45  
BUILDING NO. 3

CONDOMINIUM PLAN

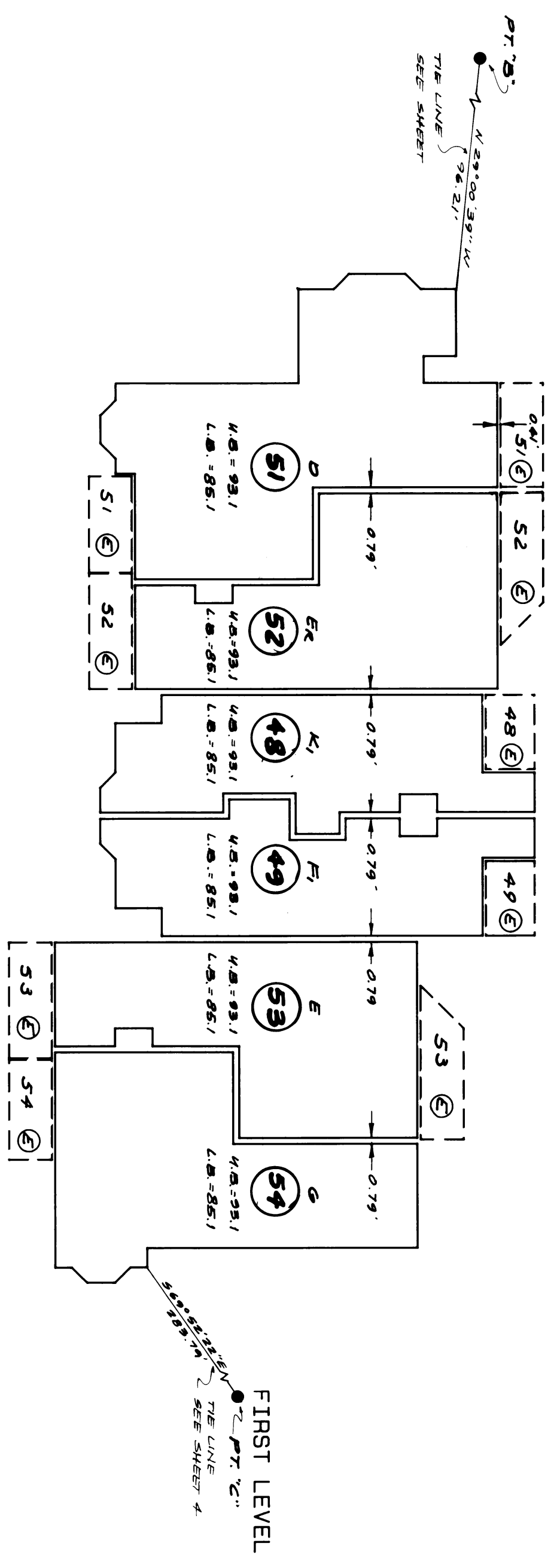
FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985

LAWRANCE, FISK & MCFARLAND, INC.  
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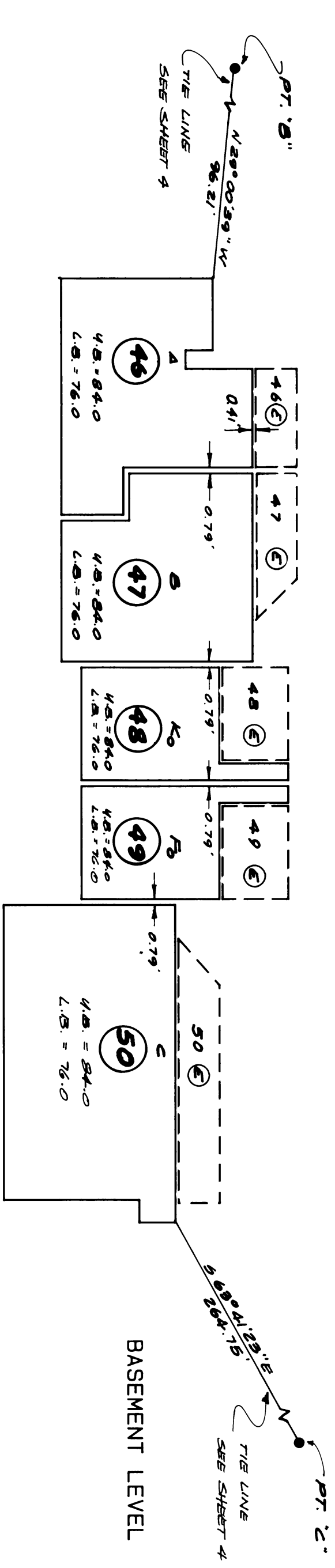
SHEET 9 OF 12 SHEETS



SECOND LEVEL



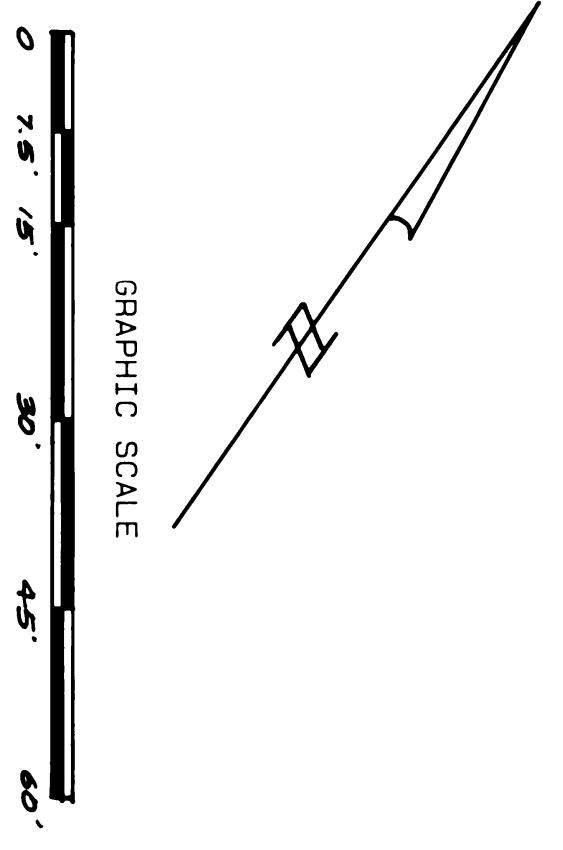
FIRST LEVEL



BASEMENT LEVEL

- LEGEND
- U.B. = LOWER VERTICAL BOUNDARY
  - U.B. = UPPER VERTICAL BOUNDARY
  - A = FLOOR PLAN TYPE
  - 54 = UNIT NUMBER
  - 54 = EXCLUSIVE USE EASEMENT

- NOTES
- ALL AIRSPACE BOUNDARY LINES INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED.
  - TIES ARE TO OUTSIDE CORNER OF AIRSPACE
  - FOR UNIT DIMENSIONS SEE SHEETS 10 AND 11.



UNITS 46 THRU 60  
BUILDING NO. 4

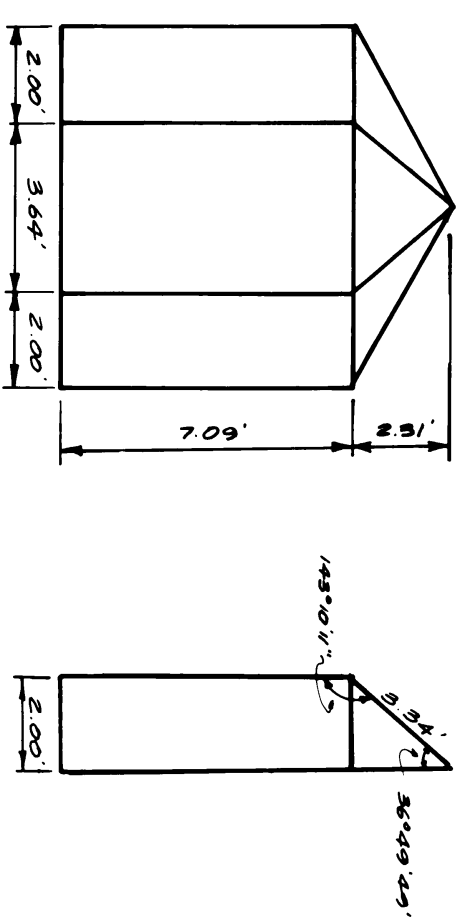
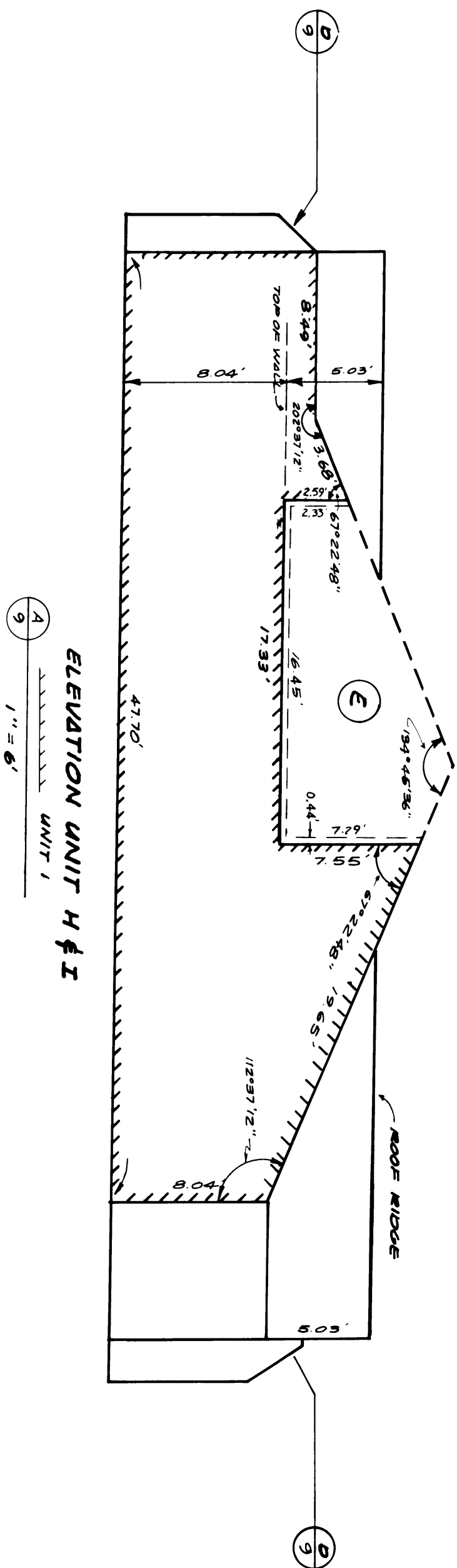
CONDOMINIUM PLAN

FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA

FEBRUARY, 1985

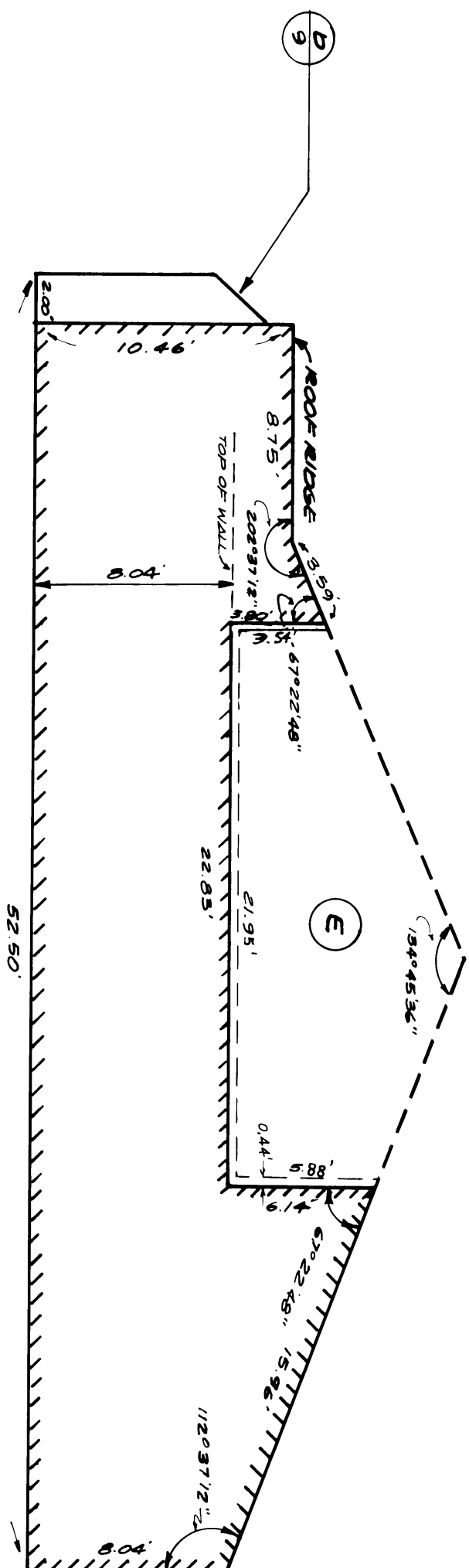
LAWRANCE, FISK & MCFARLAND, INC.  
314 E. CARRILLO ST., SUITE 1  
SANTA BARBARA, CALIFORNIA 93101  
PHONE (805) 962-6547

SHEET 9 OF 12 SHEETS

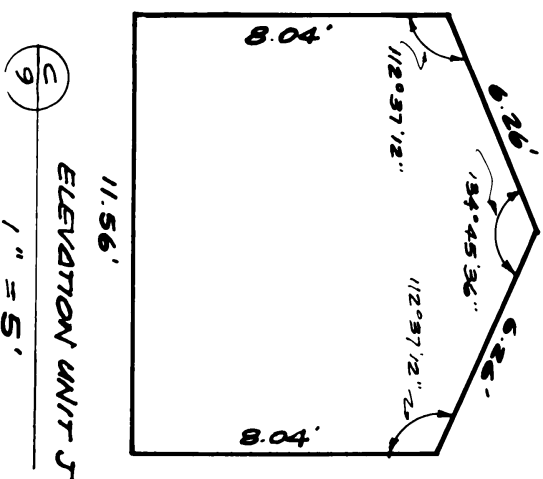


ELEVATION UNIT H & I  
UNIT I  
1" = 6'

BAY WINDOW  
NOT TO SCALE



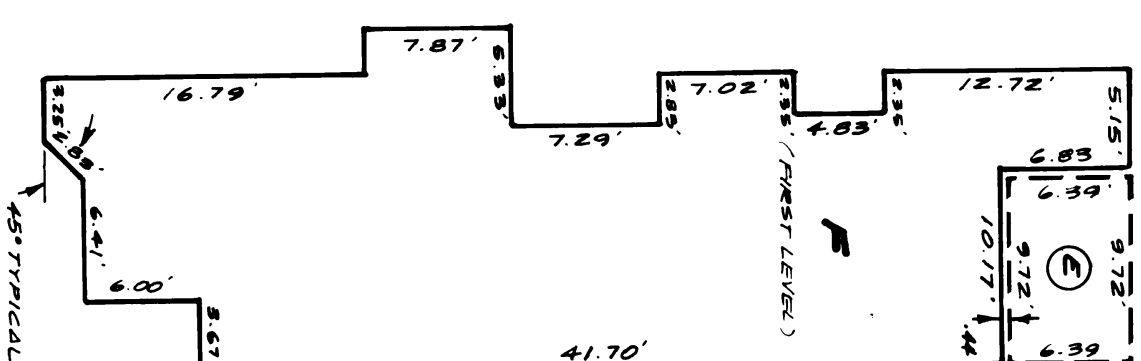
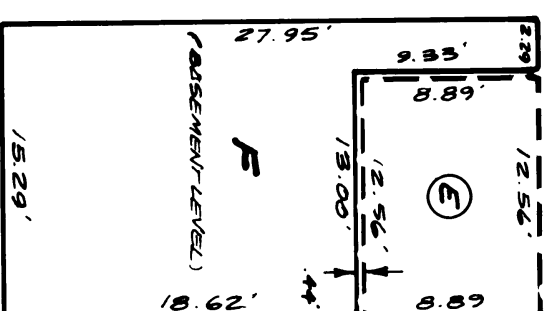
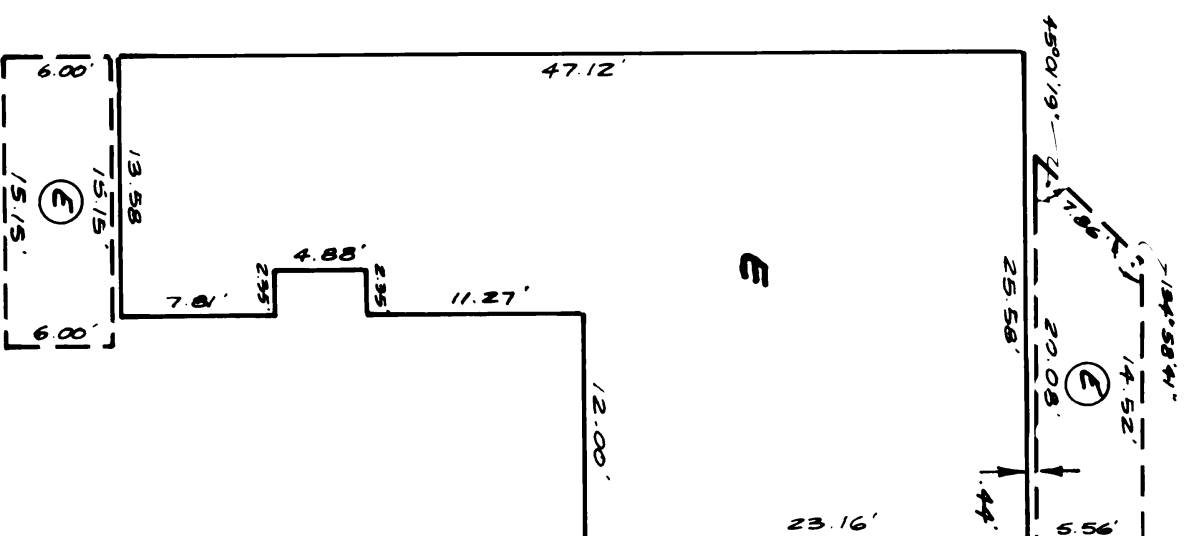
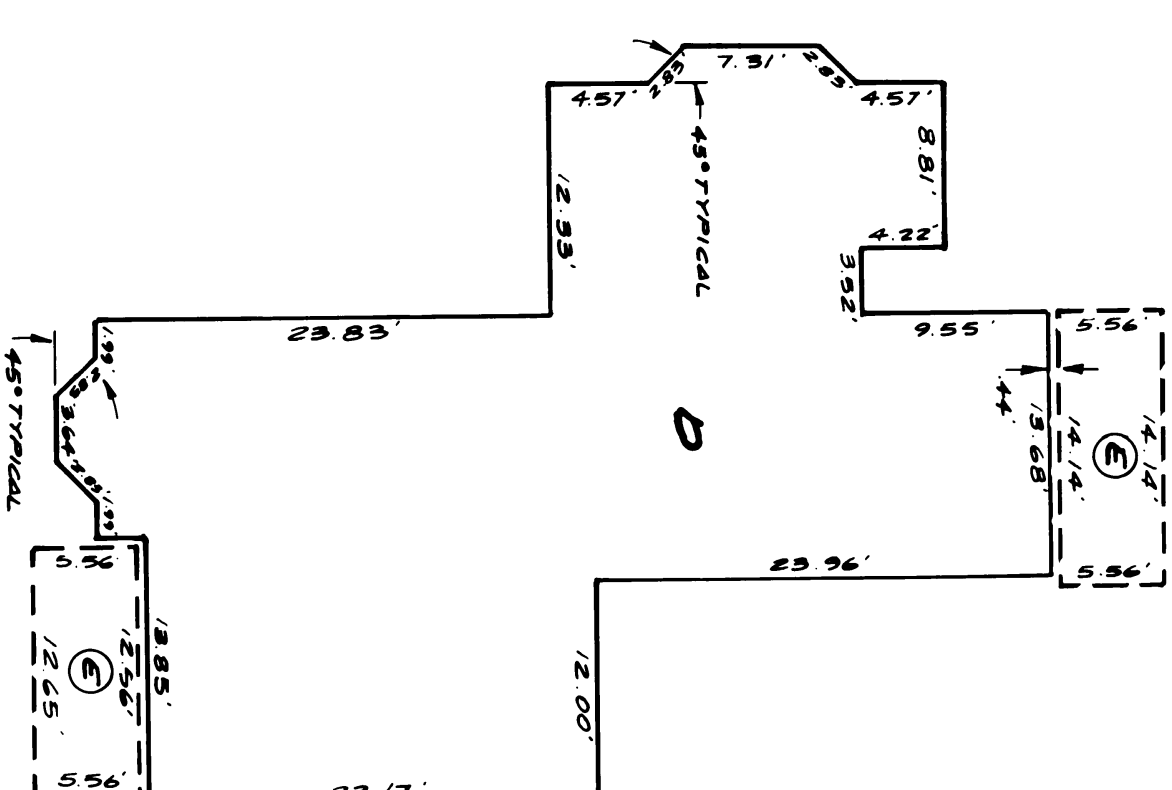
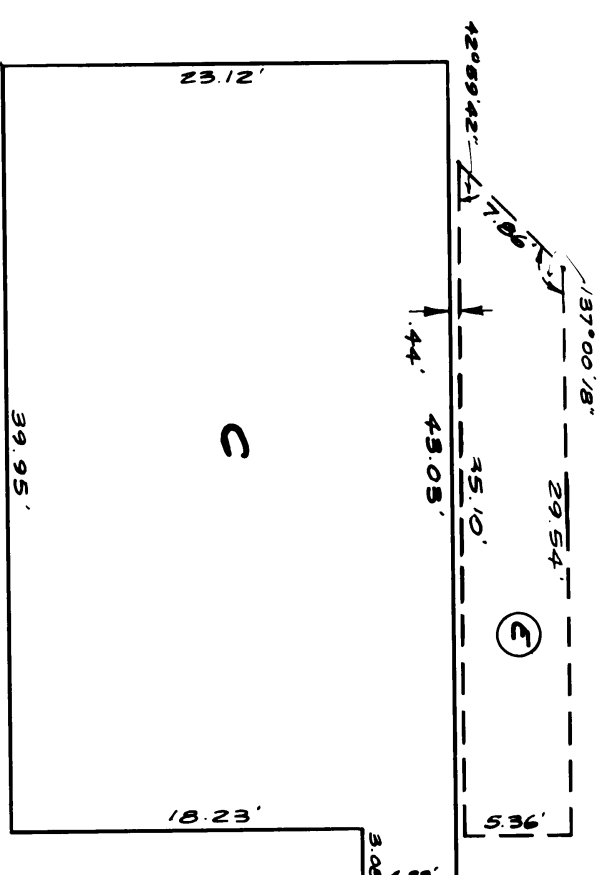
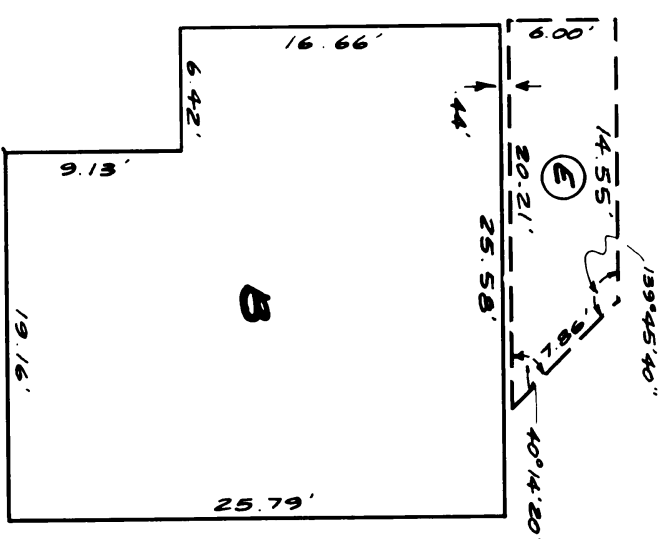
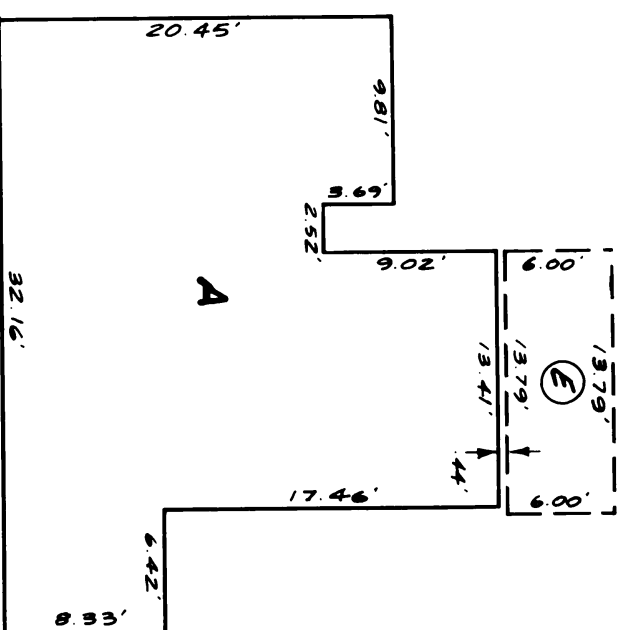
ELEVATION UNIT J & K  
UNIT E, E2, E3, E4  
1" = 6'



ELEVATION UNIT J  
1" = 5'

**NOTE**  
ALL AIRSPACE BOUNDARY LINE INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED.  
E = INDICATES EXCLUSIVE USE EASEMENT OF UNIT

**BUILDING SECTIONS**  
**CONDOMINIUM PLAN**  
FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985  
LAWRANCE, FISK & MCFARLAND, INC.  
314 E. CARRILLO ST. SUITE 1  
SANTA BARBARA, CALIFORNIA 93101  
PHONE (805) 962-6547  
SHEET 10 OF 12 SHEETS



**NOTE**

ALL UNIT BOUNDARY LINES INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED.

**E** INDICATES EXCLUSIVE USE EASEMENT OF UNIT.

SCALE 1" = 10'

GRAPHIC SCALE

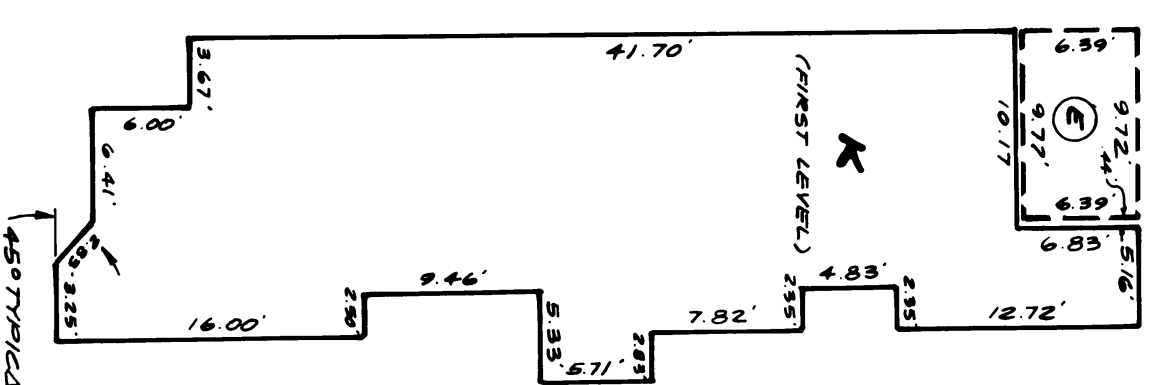
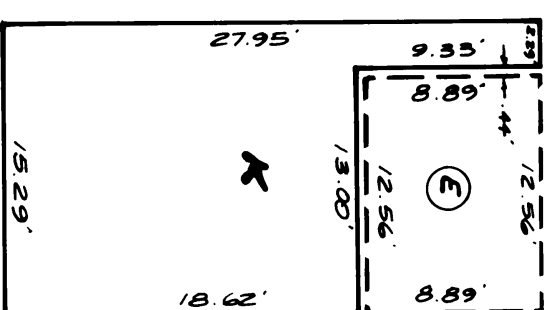
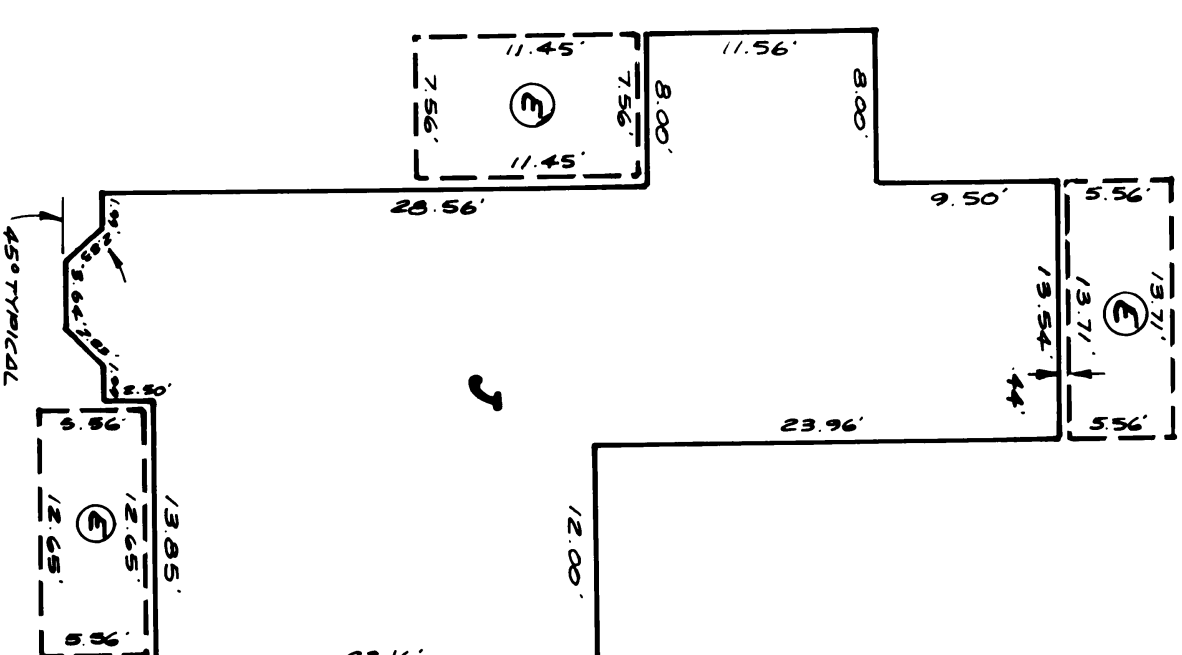
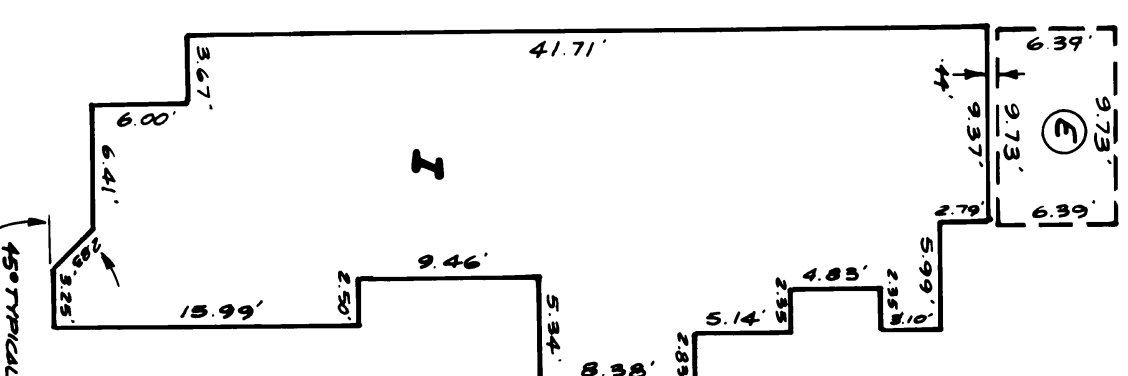
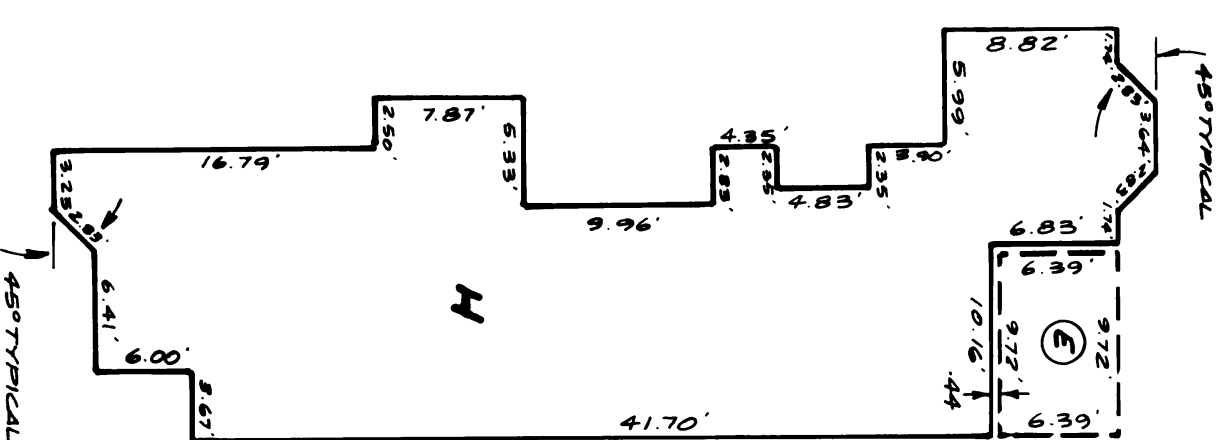
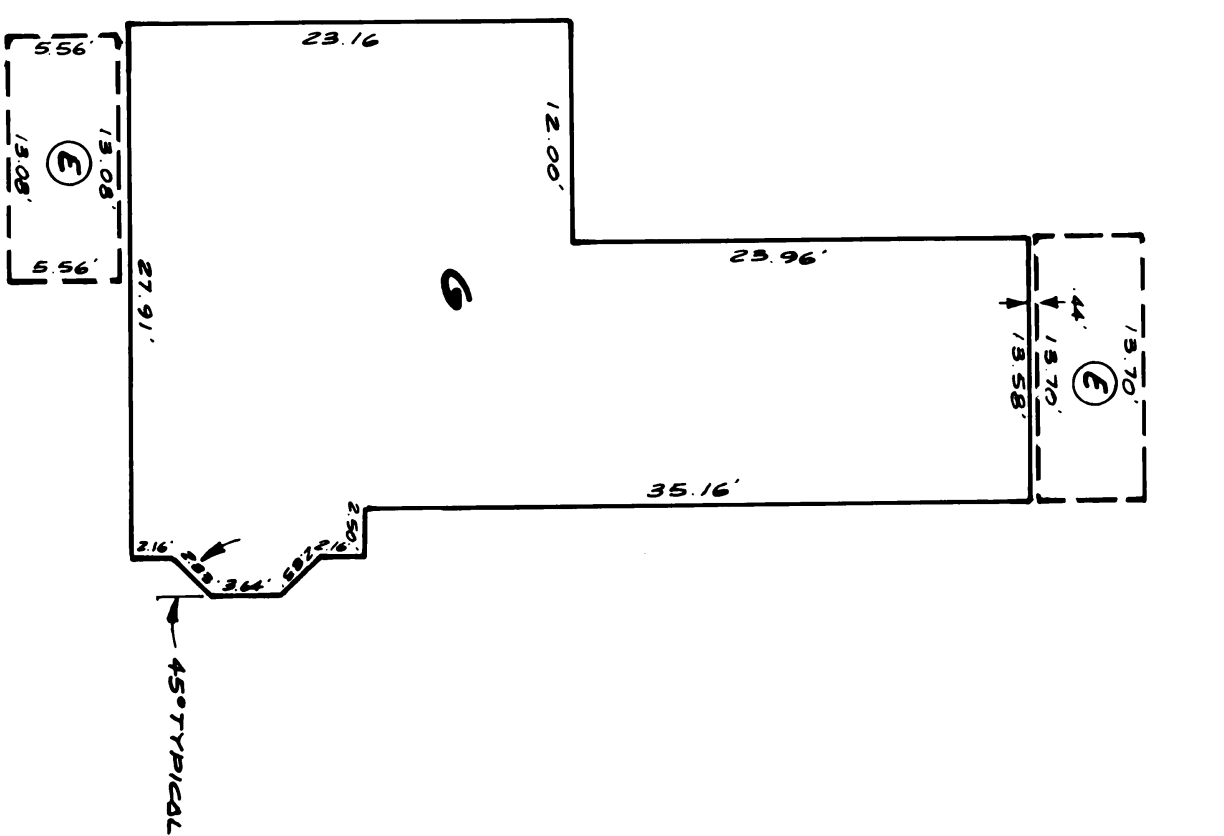


**UNIT DIMENSIONS**

**CONDOMINIUM PLAN**

FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
STATE OF CALIFORNIA  
FEBRUARY, 1985  
LAWRENCE, FISK & MCFARLAND, INC.  
314 E. CARRILLO ST., SUITE 1  
SANTA BARBARA, CALIFORNIA 93101  
PHONE (805) 962-6547

SHEET // OF 12 SHEETS



**NOTE:**

ALL UNIT BOUNDARY LINES INTERSECT AT RIGHT ANGLES UNLESS OTHERWISE NOTED.

(E) = INDICATES EXCLUSIVE USE EASEMENT OF UNIT

SCALE 1" = 10'

GRAPHIC SCALE



**UNIT DIMENSIONS**

**CONDOMINIUM PLAN**

FOR  
LOT 1 TRACT MAP NO. 13,421  
COUNTY OF SANTA BARBARA  
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FEBRUARY, 1985  
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SHEET 12 OF 12 SHEETS